REVISIONS to the

ARIZONA STATE IMPLEMENTATION PLAN

to INCORPORATE CHANGES to

ARIZONA ADMINISTRATIVE CODE

R18-2-702, R18-2-101(41), and R18-2-101(111)

Air Quality Division
Arizona Department of Environmental Quality

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ARIZONA SIP REVISIONS

Revisions to the Arizona State Implementation Plan (SIP) to Incorporate Changes to Arizona Administrative Code (A.A.C.) R18-2-702, R18-2-101(41), and R18-2-101(111)

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1.0 INTRODUCTION

1.1 Purpose and Scope.

This document describes revisions to the Arizona State Implementation Plan (SIP) consisting of changes to Arizona Administrative Code (A.A.C.) R18-2-702, "General Provisions." The current R18-2-702 contains a 40% opacity limit for existing stationary point sources of particulate matter (PM), not subject to opacity limits defined elsewhere in A.A.C. Article 7.[1] (Attachment 1 is the current R18-2-702) On September 23, 2002, EPA's final, full disapproval of the current R18-2-702 noted three deficiencies: (1) a change in the scope of applicability from the previously approved rule resulting in a SIP relaxation, in violation of the 1990 Clean Air Act Amendments (CAA) §§ 110(l) and 193; (2) failure to fulfill the Reasonably Available Control Measure/Technology (RACM/RACT) requirements of CAA § 189(a); and (3) a procedure for an alternative opacity that "allows for the potential relaxation of opacity standards below levels that are considered RACM/RACT and does not provide an opportunity for EPA to review such changes and ensure enforceability". (See 67 FR 59456) This document contains demonstrations and revisions to A.A.C. R18-2-702, correcting the deficiencies that EPA described in its disapproval. (Attachment 2 is the Notice of Proposed Rulemaking for R18-2-702) This document requests approval of the revised R18-2-702 as part of the Arizona SIP.

The second purpose of this document is to request approval of two existing definitions directly referenced in the R18-2-702: R18-2-101(41), "existing source"; and R18-2-101(111), "stationary source."

1.2 Regulatory History - A.A.C. R9-3-501, the previously approved opacity rule.

On April 1, 1980, the Arizona Department of Health Services (ADHS) submitted A.A.C. R9-3-501, "Visible Emissions: General," to EPA for approval and inclusion in the Arizona SIP. The rule established a visible emissions standard of 40 percent opacity for existing stationary point sources unregulated by source-specific opacity provisions in other Arizona regulations (Attachment 3 is R9-3-501as submitted).

EPA finalized approval of Arizona's general opacity rule on April 23, 1982 (47 FR 17483). Arizona made several changes to the rule subsequent to EPA approval:

1) The rule was renumbered to R18-2-501 in 1987 to transfer the rule from the Arizona Department of Health Services to the newly formed Arizona Department of Environmental Quality.
2) The language was changed to its current version on September 26, 1990, as part of a general rule revision process. As part of the rule revision process, ADEQ also changed the formal title of the applicable article of the Arizona Administrative Code associated with Arizona's general opacity provision from, "Existing Stationary Point Source Performance Standards," (Article 5's title) to the current title, "Existing Stationary Source Performance Standards," (Article 7's title). The actual application of, and general body of sources regulated by, Arizona's general opacity provision, remained the same under the articles.
3) Arizona renumbered the general opacity provision to A.A.C. R18-2-702, effective November 13, 1993, to accommodate new provisions that implemented the Clean Air Act (CAA) Title V program and other statutory requirements.

[1] Article 7 is titled "Existing Stationary Source Performance Standards."

On July 15, 1998, ADEQ submitted A.A.C. R18-2-702 to EPA for approval into the Arizona SIP. On December 18, 2002, EPA proposed disapproval of R18-2-702 (65 FR 79037). On September 23, 2002, at 67 FR 59456, EPA issued full, final disapproval of R18-2-702. The disapproval imposes obligations on both ADEQ and EPA. If ADEQ does not submit a SIP revision that resolves these deficiencies and is approved by EPA by April 23, 2004, EPA must impose sanctions on Arizona under § 179 of the CAA (See 59 FR 39832, August 4, 1994), if ADEQ fails to obtain EPA approval of a revised rule by April 23, 2004. In addition, if EPA does not approve an appropriate Arizona rule revision by September 23, 2004, EPA must promulgate a Federal Implementation Plan (FIP) under CAA § 110(c).

1.3 Regulatory History - A.A.C. R18-2-101(41), R18-2-101(111).

ADEQ is also proposing to submit two existing definitions as part of this SIP revision: "existing source" and "stationary source". (The current definitions are Attachment 4) The current versions of these definitions are referenced in R18-2-702(A) and have not been previously submitted to EPA for approval. The versions of these definitions as they existed in the old ADHS rules were approved by EPA in 1982; both definitions, however, were revised in September 1990. (The ADHS definitions are Attachment 5)

2.0 ADDRESSING RULE DEFICIENCIES

2.1 Deficiency #1 - SIP Relaxation. R18-2-702 is not a SIP relaxation because it applies to more sources than R9-3-501.

EPA's final disapproval of A.A.C. R18-2-702 stated that the ADEQ rule did not comply with CAA SIP relaxation requirements in §§ 110(l) and 193, which restrict the ability of states to relax SIP requirements[2]. EPA determined that ADEQ's modifications to A.A.C. R18-2-702 had narrowed the scope of applicability compared to the prior SIP-approved rule.

R9-3-501 was the first section of Article 5, "Existing Stationary Point Source Performance Standards" and contained a 40% opacity standard for any plume or effluent "(e)xcept as otherwise provided in these Regulations." Although the text of the rule does not specify applicability to existing sources, existing source was defined in the SIP-approved rule R9-3-101(60) as: "any source which commenced replacement, erection, installation or making a major alteration of the type described in R9-3-301(installation permit) prior to May 14, 1979." Compared to the current definition of "existing source," a source for which there is no applicable New Source Performance Standard in Article 9, this means that R9-3-501 applied to NSPS sources as well as non-NSPS sources, as long as they were constructed prior to May 14, 1979.

In contrast, R18-2-702, as submitted with the changed definition of "existing sources" applies to non-NSPS sources only, but applies without regard to any construction date. That is, it applies to sources constructed before and after May 14, 1979. Table 1 below compares the number of current permitted Arizona sources covered by R9-3-501 with R18-2-702.

[2]CAA § 110(l) forbids EPA from approving a SIP revision if the revision "...would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in § 171)..." CAA § 193, "General Savings Clause," requires that "No control requirement in effect . . . before the date of the enactment of the Clean Air Act Amendments of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant."

Table 1. Applicability Table Comparing R9-3-501 and R18-2-702

Sources	Constructed before 5/14/79	Constructed after 5/14/79
NSPS sources	R9-3-501 only; (0 AZ sources in category)	neither R9-3-501 nor R18-2-702; but NSPS applies (unknown # of AZ sources)
non-NSPS sources	R9-3-501 and R18-2-702; (unknown # of AZ sources)	R18-2-702 only; (estimated to be more than 100 AZ sources in category)

It is evident from Table 1 that there are no known Arizona sources that were covered under R9-3-501 and not covered by R18-2-702. Because there are many sources that will be covered by R18-2-702 that would not be covered by R9-3-501, it applies to a significantly larger number of Arizona sources than R9-3-501 and there is no relaxation of the SIP. The only class of sources that R9-3-501 covered that R18-2-702 does not is NSPS sources that were constructed prior to May 14, 1979. ADEQ has determined that no such sources exist in Arizona. Appendix A represents ADEQ research concerning source categories subject to new source performance standards rules without opacity limits. Appendix B considers SIP relaxation issues.

2.2 Deficiency #2 - Adopted Revisions to R18-2-702 Will Correct RACM/RACT Deficiency.

ADEQ has adopted revisions to R18-2-702 that will change the opacity limit for sources in nonattainment areas from 40% to 20% on the effective date of the rule. Although EPA has clarified that it is only requiring A.A.C. R18-2-702 to meet RACM/RACT in PM_{10} nonattainment areas, the new rule and SIP revisions would apply the general opacity limit of 20 percent to sources in attainment and unclassifiable areas as well after April 23, 2006, for reasons outlined in the preamble to the rulemaking.

2.3 Deficiency #3 - Adopted Revisions to R18-2-702 Will Correct Deficiencies in the Alternative Opacity Procedure

In its final rule, EPA stated that the alternative opacity standard procedure "allows for the potential relaxation of opacity standards below levels that are considered RACM/RACT and does not provide an opportunity for EPA to review such changes and ensure enforceability".

ADEQ has adopted revisions to R18-2-702 to ensure that the applicable opacity limit for any source in a nonattainment area will not fall below RACM/RACT and that also allows EPA to review such changes to ensure achievement of the RACT standard and enforceability. A.A.C. R18-2-702(G) of the new rule, requires that the ADEQ Director, upon approving a source's request for an alternative opacity standard in a nonattainment area, include the alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. Subsection (F) requires that the alternative opacity limit fulfill the CAA requirement for RACT. The additional EPA involvement in the approval of Arizona alternative opacity standards for sources in nonattainment areas will ensure protection of the national primary and secondary NAAQS for PM_{10} in nonattainment areas.

3.0 REQUEST FOR ACTION

Arizona requests approval of the revised A.A.C. R18-2-702 and the current definitions of "existing source," and, "stationary source," as submitted, as part of the Arizona State Implementation Plan.

Appendix A

Source Categories Subject to New Source Performance Standards Rules Without Opacity Limits

APPENDIX A

FEDERAL NEW SOURCE PERFORMANCE STANDARDS (NSPS) Without Specified Opacity Limits

Opacity Standards for Federal NSPS Rules Promulgated, or Sources Constructed, Reconstructed, or Modified, Prior to May 14, 1979					
Federal New Source Performance Standards without Opacity Standards			**Applicable or Comparable Arizona Performance Standards**		
General Source Category and Applicability	**NSPS Rule Date Effective**	**Regulated Pollutants**	**AZ NSPS Rule & Opacity Limits**	**Article 7 Rule & Opacity Limits**	**Pollutants Regulated by Article 7 Rules**
Incinerators > 45 metric tons/day (50 tons/day) charging rate; constructed > August 17, 1971	40 CFR 60.50 - .54, Subpart E (7/25/77)	PM: Ý 0.18 g/dscm (0.08 gr/dscf) corrected to 12 percent CO_2	A.A.C. R18-2-904 requires conformance with federal NSPS & AZ Article 7 standards	A.A.C. R18-2-704 **Opacity Limit: 20%**	PM: Ý 0.1grain (0.2 grains for wood waste burners) per cubic foot, based on dry flue gas at standard conditions, corrected to 12 percent CO_2
Petroleum Liquids Storage Vessels with storage capacity > 151,416 liters, constructed > March 8, 1984 and < May 19, 1978, or > 246,052 liters, constructed > June 11, 1973 and < May 19, 1978	40 CFR 60.110 - .113, Subpart K (7/25/77)	VOCs	A.A.C. R18-2-905 requires conformance with federal NSPS standards; also, IBR at A.A.C. R18-2-901	A.A.C. R18-2-710 Opacity Limit: None	Control measures for VOCs and hydrocarbons
Petroleum Liquids Storage Vessels constructed > May 18, 1978 and < July 23, 1984, or with storage capacity > 151,416, constructed > May 18, 1978	40 CFR 60.110a - .115a, Subpart Ka (4/4/80)	VOCs	A.A.C. R18-2-905 requires conformance with federal NSPS standards; also, IBR at A.A.C. R18-2-901	A.A.C. R18-2-710 Opacity Limit: None	Control measures for VOCs and hydrocarbons
Stationary Gas Turbines with heat input @ peak load $ 10.7 gigajoules per hour, constructed > October 3, 1977	40 CFR 60.330 - .335, Subpart GG (9/10/79)	NO_x, SO_2	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-719 **Opacity Limit: 40%**	PM limits by process weight rate equations, SO_2
Phosphoric Acid Plants wet-process plants with design capacity > 15 tons P205 feed/day, constructed > October 22, 1974	40 CFR 60.200 - .204, Subpart T (7/25/77)	Fluorides	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Superphosphoric Acid Plants with design capacity > 15 tons P205 feed/day, constructed > October 22, 1974	40 CFR 60.210 - .214, Subpart U (7/25/77)	Fluorides	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None

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Federal New Source Performance Standards without Opacity Standards			**Applicable or Comparable Arizona Performance Standards**		
General Source Category and Applicability	**NSPS Rule Date Effective**	**Regulated Pollutants**	**AZ NSPS Rule & Opacity Limits**	**Article 7 Rule & Opacity Limits**	**Pollutants Regulated by Article 7 Rules**
Granular Diammonium Phosphate Plants with design capacity > 15 tons P205 feed/day, constructed > October 22, 1974	40 CFR 60.220 - .224, Subpart V (7/25/77)	Fluorides	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Triple Superphosphate Plants with design capacity > 15 tons P205 feed/day, constructed > October 22, 1974	40 CFR 60.230 - .234, Subpart W (7/25/77)	Fluorides	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Superphosphate Storage Facilities constructed > October 22, 1974	40 CFR 60.240 - .244, Subpart X (7/25/77)	Fluorides	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Opacity Standards for Federal NSPS Rules Promulgated, or Sources Constructed, Reconstructed, or Modified, After May 14, 1979					
Sulfuric Acid Production Units	40 CFR 60.30d - .32d, Subpart Cd (2/11/91)	Sulfuric acid mist	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-707	Sulfuric acid mist; SO_2
Volatile Organic Liquid Storage Vessels with capacity $ 40 cubic meters, constructed > July 23, 1984 (AZ R18-2-901)	40 CFR 60.110b - .117b, Subpart Kb (4/8/87)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Surface Coating of Metal Furniture constructed > November 28, 1980	40 CFR 60.310 - .316, Subpart EE (10/29/82)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-727, "Spray Painting Operations"	Hydrocarbons, alcohols, aldehydes, esters, ethers, ketones, ethylbenzene, trichlorethylene, toluene... (HAPs)
Automobile/Light Duty Truck Surface Coating constructed > October 5, 1979	40 CFR 60.390 - .398, Subpart MM (12/24/80)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-727, "Spray Painting Operations"	Hydrocarbons, alcohols, aldehydes, esters, ethers, ketones, ethylbenzene, trichlorethylene, toluene... (HAPs)

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Federal New Source Performance Standards without Opacity Standards			**Applicable or Comparable Arizona Performance Standards**		
General Source Category and Applicability	**NSPS Rule Date Effective**	**Regulated Pollutants**	**AZ NSPS Rule & Opacity Limits**	**Article 7 Rule & Opacity Limits**	**Pollutants Regulated by Article 7 Rules**
Graphic Arts Industry: Publication Rotogravure constructed > October 28, 1980	40 CFR 60.430 - .435, Subpart QQ 11/8/82)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Pressure Sensitive Tape & Label Surface Coating > 45 Mg / 12-month period	40 CFR 60.440 - .447, Subpart RR (10/18/83)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Industrial Surface Coating: Large Appliances constructed > December 24, 1908	40 CFR 60.450 - .456, Subpart SS 10/27/82)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-727, "Spray Painting Operations"	Hydrocarbons, alcohols, aldehydes, esters, ethers, ketones, ethylbenzene, trichlorethylene, toluene... (HAPs)
Metal Coil Surface Coating constructed > January 5, 1981	40 CFR 60.460 - .466, Subpart TT (11/1/82)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-727, "Spray Painting Operations"	Hydrocarbons, alcohols, aldehydes, esters, ethers, ketones, ethylbenzene, trichlorethylene, toluene... (HAPs)
Equipment Leaks / VOC in SOCMI constructed > January 5, 1981	40 CFR 60.480 - .489, Subpart VV (10/18/83)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Beverage Can Surface Coating constructed > November 26, 1980	40 CFR 60.490 - .496, Subpart WW (8/25/83)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-727, "Spray Painting Operations"	Hydrocarbons, alcohols, aldehydes, esters, ethers, ketones, ethylbenzene, trichlorethylene, toluene... (HAPs)
Bulk Gasoline Terminals constructed > December 17, 1980	40 CFR 60.500 - .506, Subpart XX (8/18/83)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Rubber Tire Manufacturing constructed > January 20, 1983	40 CFR 60.540 - .548, Subpart BBB (9/15/87)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None

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Federal New Source Performance Standards without Opacity Standards			**Applicable or Comparable Arizona Performance Standards**		
General Source Category and Applicability	**NSPS Rule Date Effective**	**Regulated Pollutants**	**AZ NSPS Rule & Opacity Limits**	**Article 7 Rule & Opacity Limits**	**Pollutants Regulated by Article 7 Rules**
Flexible Vinyl and Urethane Coating and Printing constructed > January 18, 1983	40 CFR 60.580 - .585, Subpart FFF (6/29/84)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Equipment Leaks of VOC in Petroleum Refineries constructed > January 4, 1983	40 CFR 60.590 - .593, Subpart GGG (5/30/84)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-709	VOCs & SO_2
Synthetic Fiber Production Facilities > 500 Mg fiber / year, constructed > November 23, 1982	40 CFR 60.600 - .604, Subpart HHH (4/5/84)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Petroleum Dry Cleaners $ 38 kilograms, constructed > December 14, 1982	40 CFR 60.620 - .625, Subpart JJJ (9/21/84)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-725	HAPs
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants constructed > January 20, 1984	40 CFR 60.630 - .636, Subpart KKK (6/24/85)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Onshore Natural Gas Processing design capacity < 2 long tons / day of hydrogen sulfide, constructed > January 20, 1984	40 CFR 60.640 - .648, Subpart LLL (10/1/85)	SO_2	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
VOC Emissions from SOCMI Distillation Operations constructed > January 30, 1983	40 CFR 60.660 - .668, Subpart NNN (6/29/90)	VOCs, TOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Wool Fiberglass Insulation Manufacturing Plants constructed > February 7, 1984	40 CFR 60.680 - .685, Subpart PPP (2/25/85)	PM: Ý 5.5 kg / Mg (11.0 lb / ton) of glass pulled	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None

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Federal New Source Performance Standards without Opacity Standards			**Applicable or Comparable Arizona Performance Standards**		
General Source Category and Applicability	**NSPS Rule Date Effective**	**Regulated Pollutants**	**AZ NSPS Rule & Opacity Limits**	**Article 7 Rule & Opacity Limits**	**Pollutants Regulated by Article 7 Rules**
VOC Emissions from Petroleum Refinery Wastewater Systems constructed > May 4, 1987	40 CFR 60.690 - .699, Subpart QQQ (11/23/88)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
VOC Emissions from SOCMI Reactor Processes constructed > June 29, 1990	40 CFR 60.700 - .708, Subpart RRR (8/31/93)	VOCs, TOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Magnetic Tape Coating Facilities constructed > January 22, 1986	40 CFR 60.710 - .718, Subpart SSS (10/3/88)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None
Industrial Surface Coating of Plastic Parts constructed > January 8, 1986	40 CFR 60.720 - .726, Subpart TTT (1/29/88)	VOCs	A.A.C. R18-2-901, IBR of federal standards	A.A.C. R18-2-727, "Spray Painting Operations"	Hydrocarbons, alcohols, aldehydes, esters, ethers, ketones, ethylbenzene, trichlorethylene, toluene... (HAPs)
Polymeric Coating of Supporting Substrates Facilities constructed > April 30, 1987	40 CFR 60.740 - .748, Subpart VVV (9/11/89)	VOCs	A.A.C. R18-2-901, IBR of federal standards	**NO RULE**	None

Appendix B

SIP Relaxation Issues Table

APPENDIX B
SIP Relaxation Issues

Table 2. 67 FR 59456 (p. 59457), EPA's Response to Comment II.

NOTE: The effect of this submittal's proposed revisions to A.A.C. R18-2-702 will be implementation of a statewide 20 percent opacity limit applicable to all sources that emit particulate matter. Implementation of the new 20 percent opacity standard will result in the reopening, or revocation and reissuance, of permits containing higher limits to amend the higher limits, in accordance with A.A.C. R18-2-321, and A.A.C. R18-2-325(B)(5).

Federal New Source Performance Standards		**Comparable Arizona Performance Standards**	
General Source Category, General Applicability, and Citation	**Applicable Opacity Standard**	**Article 7 Rule, General Applicability, Citation**	**Applicable Opacity Standard**
Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971 - Each fossil-fuel-fired steam generating unit of more than 73 megawatts heat input rate 40 CFR § 60.40, et. seq., Subpart D (7/25/77)	40 CFR § 60.42(a)(2) **20 Percent**	**A.A.C. R18-2-703, Standards of Performance for Existing Fossil-Fuel Fired Steam Generators and General Fuel-Burning Equipment** - All fossil-fuel-fired steam generating units or general fuel-burning equipment, greater than or equal to 73 megawatts capacity	A.A.C. R18-2-702(B) **40 Percent**
Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978 - Each electric utility steam generating unit capable of combusting more than 73 megawatts of fossil fuel 40 CFR § 60.40a, et. seq., Subpart Da (6/11/79)	40 CFR § 60.42(a)(3)(b) **20 Percent**	**A.A.C. R18-2-719, Standards of Performance for Stationary Rotating Machinery** - All stationary gas turbines, oil-fired turbines, or internal combustion engines operated for the purpose of producing electric or mechanical power	A.A.C. R18-2-719(E) **40 Percent**
Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units - Each steam generating unit that commences construction, modification, or reconstruction after June 19, 1984, and that has a heat input capacity from fuels combusted of greater than 29 megawatts 40 CFR § 60.40b, et. seq., Subpart Db (12/16/87)	40 CFR § 60.43b(d)(2)(iv)(f) **20 Percent**	**A.A.C. R18-2-724, Standards of Performance for Fossil-Fuel Industrial and Commercial Equipment** - Industrial and commercial installations less than 73 megawatts capacity, in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases or solids	A.A.C. R18-2-724 (J) **15 Percent**

APPENDIX B
SIP Relaxation Issues

Table 2. 67 FR 59456 (p. 59457), EPA's Response to Comment II.

Federal New Source Performance Standards		**Comparable Arizona Performance Standards**	
General Source Category, General Applicability, and Citation	**Applicable Opacity Standard**	**Article 7 Rule, General Applicability, Citation**	**Applicable Opacity Standard**
Standards of Performance for Small Industrial-Commercial Institutional Steam Generating Units - Each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989, and that has a maximum design heat input capacity of 29 megawatts or less 40 CFR § 60.40c, et. seq., Subpart Dc (9/12/90)	40 CFR § 60.43c(c) **20 Percent**	**A.A.C. R18-2-724, Standards of Performance for Fossil-Fuel Industrial and Commercial Equipment** - For all units established in Arizona prior to June 8, 1989, this rule applies to industrial and commercial installations that fall under 73 megawatts capacity	A.A.C. R18-2-724(J) **15 Percent**
Standards of Performance for Incinerators - Each incinerator of more than 45 metric tons per day charging rate (50 tons per day) 40 CFR § 60.50, et. seq., Subpart E (7/25/77)	40 CFR § 60.52 Rule provides a standard for particulate matter, only	**A.A.C. R18-2-704, Standards of Performance for Incinerators** - For any type of incinerator	A.A.C. R18-2-704(A) **20 Percent**
Standards of Performance for Nitric Acid Plants - Each nitric acid production unit that commenced operation or modification after August 17, 1971 40 CFR § 60.70, et. seq., Subpart G (7/25/77)	40 CFR § 60.72 **10 Percent opacity** applicable to nitrogen oxide emissions	**A.A.C. R18-2-706, Standards of Performance for Nitric Acid Plants** - Any nitric acid plant producing weak nitric acid	A.A.C. R18-2-702(B) **10 Percent**
Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants - Each rotary spin wood fiberglass insulation manufacturing line that commenced construction, modification, or reconstruction after February 7, 1984 40 CFR § 60.680, et. seq., Subpart PPP (2/25/85)	40 CFR § 60 Rule provides a standard for particulate matter, only	No Arizona standard of performance; no representatives of this source category currently operate in Arizona	No Arizona Rule

Attachment 1

Existing General Opacity Rule
A.A.C. R18-2-702,"General Provisions"

R18-2-702. General Provisions

A. The provisions of this Article shall only apply to existing sources.

B. Except as otherwise provided in this Article relating to specific types of sources, the opacity of any plume or effluent:
   1. Shall not be greater than 40%, and
   2. Shall be determined by reference Method 9 in 40 CFR 60, Appendix A.

C. Where the presence of uncombined water is the only reason for the exceedance of any visible emissions requirements in this Article, such exceedance shall not constitute a violation.

D. A person owning or operating an air pollution source may ask the Director for a determination on meeting the requirements of the applicable opacity standard.
   1. The owner or operator shall submit the written reports of the results of the performance tests, the opacity observation results, and observer certification.
   2. If the Director finds that the facility is in compliance with all applicable standards for the performance test and still fails to meet the applicable opacity standard, he shall notify the owner or operator of the finding.
   3. The owner or operator may petition the Director within 10 days of receipt of notification, asking the Director to make an appropriate adjustment to the opacity standard for the facility.
   4. The Director shall grant the petition after public notice and opportunity for public hearing takes place and upon a determination by the owner or operator that:
      a. The affected facility and the associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance test.
      b. The performance tests were performed under the conditions established by the Director.
      c. The affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity requirement.
   5. The Director shall establish an opacity standard for the affected facility based on the determination made in subsection (D)(4). The opacity standard shall be set at a level indicated by the performance and opacity tests, providing that the source will be able to meet the mass or concentration standard and the opacity standard at all times. Such opacity standard shall be incorporated as a condition of the permit for the affected facility.
   6. The Director shall publish the opacity standard once in one or more newspapers of general circulation in the county or counties concerned.

E. The process weight rate utilized in this Article shall be determined as follows:
   1. For continuous or long run, steady-state process sources, the process weight rate shall be the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.
   2. For cyclical or batch process sources, the process weight rate shall be the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.

Historical Note

Former Section R18-2-702 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-702 renumbered from R18-2-502 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-703. Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment

A. This Section applies to the following:
   1. Installations in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under R18-2-704.
   2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to 73 megawatts capacity.

B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.

C. No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:
   1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:
      $E = 1.02Q^{0.769}$
      where:
      E = the maximum allowable particulate emissions rate in pounds-mass per hour.
      Q = the heat input in million Btu per hour.
   2. For equipment having a heat input rate greater than 4200 million Btu/hr, the maximum allowable emissions shall be determined by the following equation:
      $E = 17.0Q^{0.432}$
      where "E" and "Q" have the same meaning as in subsection (C)(1).

D. For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual values shall be calculated from the applicable equations and rounded off to 2 decimal places.

E. When low sulfur oil is fired:
   1. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
   2. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide maximum three-hour average per million Btu (340 nanograms per joule) heat input.

F. When high sulfur oil is fired, all existing steam-power generating and general fuel-burning installations which are subject to the provisions of this Section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million Btu (946 nanograms per joule) heat input.

G. When solid fuel is fired:
   1. Existing general fuel-burning equipment and steam-power generating installations which commenced con-

Attachment 2

Notice of Proposed Rulemaking, A.A.C. R18-2-702

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

PREAMBLE

1. **Sections Affected** **Rulemaking Action**

R18-2-702 Amend

2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing and Implementing Statutes: A.R.S. §§ 49-104(A)(11), 49-404, and 49-425

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Docket Opening: 9 A.A.C. 2282, July 3, 2003

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Kevin Force, Air Quality Division

Address: ADEQ 1110 W. Washington, Phoenix, AZ 85007

Telephone Number: (602) 771-4480 (Any ADEQ number may be reached in state by dialing 1-800-234-5677 and asking for the seven digit extension.)

Fax: (602) 771-2366

E-mail: kfl@ev.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

Summary. ADEQ is proposing to revise R18-2-702 to establish a statewide 20% opacity limit for certain stationary point source categories. The proposed rule also sets forth a process by which a source may petition the Director for an alternative opacity limit. The proposed revisions respond to the recent EPA disapproval to R18-2-702 as a revision of the Arizona State Implementation Plan.

Background. On September 23, 2002, EPA disapproved R18-2-702 as a revision of the Arizona State Implementation Plan (SIP), and directed Arizona to correct deficiencies in the rule (67 FR 59546). EPA found R18-2-702 deficient in three respects: its scope of applicability, the failure of a 40% opacity limit to meet Reasonably Available Control Measures (RACM) requirements for moderate PM_{10} nonattainment areas, and the Director's discretionary power to relax the opacity standard without EPA approval. EPA will impose sanctions on Arizona if certain deficiencies are not corrected and approved by EPA by April 23, 2004.

Current Proposal. No rule revisions were necessary to correct the scope of applicability deficiency, which will be discussed in the background of the SIP revision. ADEQ's proposed amendment of R18-2-702 to impose a statewide 20% opacity standard would satisfy the RACM requirement deficiency. Finally, ADEQ is proposing revisions to include EPA review and approval of alternative opacity standards approved by the Director in nonattainment areas.

ADEQ has notified and solicited comment from over 130 stakeholders and interested parties about this proposed rule in an effort to create a rule that addresses the needs of both the general public and the regulated community. They range from state, federal and local governments and agencies to regulated businesses and environmental groups. Stakeholder meetings were regularly attended by 20 or more

representatives from various parties. The proposed changes to R18-2-702 are the result of this extensive cooperative effort with stakeholders and other interested parties.

Although EPA has clarified that it is only requiring R18-2-702 to meet RACM for PM_{10} nonattainment areas, this proposed rule imposes a statewide general opacity limit of 20% , and outlines the process by which sources can receive an alternative opacity standard, subject to the Director's discretion and, in the case of nonattainment areas, the review and approval of the EPA. The proposed rule allows 3 months from the expected effective date of the rule (January 15, which is two months after GRRC's anticipated approval), for submission of a petition for an alternative limit. This time should allow sources to assemble the documentation necessary to show a genuine need for an alternative limit, and give sources the opportunity, in their documentation, to suggest what alternative opacity limit they might best be able to achieve. In order to obtain an accurate count of sources that may apply for an alternative opacity limit, ADEQ requests any source that might petition for one to indicate so in a comment to this rule.

In research over the past few months, ADEQ found that 20% opacity or lower is being applied throughout the country for all types of sources. Because many of the source types affected (example: sand & gravel operations) operate throughout Arizona, 20% is reasonable to apply statewide in Arizona without unduly burdening the regulated community. ADEQ expects the rule to actually impact very few sources in attainment areas. Moreover, a statewide 20% opacity limit best serves the public health and welfare. Enforcement of a statewide limit would limit the problem of transport of pollutants from attainment to nonattainment areas. This is especially important for particulates, which many times pollute in nearby areas more than being transported long distances.

ADEQ also finds that it would be difficult and inefficient for both sources and regulators to keep track of the correct standards if the state were divided up further into an interlocking patchwork of contiguous 20% and 40% areas. Maricopa County has made the same choice: although it contains a PM10 nonattainment area, county regulators have made 20% opacity the general limit throughout the entire county.

Because some sources in attainment areas may not be as familiar with the rulemaking process as others, the proposed rule gives sources in attainment areas 2 years from the expected date of EPA approval to comply. Thus, affected sources in attainment areas planning to make equipment changes will have 2 full business infrastructure cycles in which to gather capital, conduct tests, design and implement controls necessary to comply with the 20% limit, if they don't apply for an alternative limit. ADEQ expects that it will reopen, or revoke and reissue permits that contain 40% opacity limits from the former rule under R18-2-321, and R18-2-325(B)(5).

A statewide 20% opacity limit would also serve economic equity and efficiency. Competition might be adversely affected by the application of differing opacity limits based on attainment status. If sources, particularly portable sources, are able to relocate just outside a nonattainment area in order to avoid compliance costs associated with the lower opacity limit, those sources would enjoy an unfair advantage over those remaining on the nonattainment side of that boundary. They would receive the benefits of lower compliance costs, yet continue to impart proportionately greater damage to the environment and human health.

During workshops on this rule, some sources commented that exceptions to the 20% opacity standard should be written directly into R18-2-702 for certain source conditions related to startup, shutdown,

malfunction. ADEQ notes that it already has rule language that covers these situations in R18-2-310, Affirmative Defenses for Excess Emissions Due to Malfunctions, Startup, and Shutdown. In addition, certain sources requested exceptions written into the rule for more routine opacity variations related to "load-shifting" that is, increasing or decreasing the amount of fuel being sent into the power generating equipment in order to respond to a need for increased or decreased power. ADEQ believes that exceptions for such routine operations would defeat the purpose of having a general opacity standard, and would be best handled under an alternative opacity limit. ADEQ expects that the alternative limits it approves under subsection (D) would only apply during those periods where the source shows it cannot meet the 20% limit, and not during the entire operating period.

Finally, in subsection (I), ADEQ is proposing a limited, emergency fuel-switching exception to the general opacity standard for electrical utilities, to be used during emergency natural gas shortages. During these shortages, it is expected that diesel fuel would be used as a temporary fuel, and that during switching to diesel, opacity could temporarily rise above 20%. The proposed rule is similar to a recent Maricopa County rule that allows exceptions to CO, VOC, NOx and opacity standards under similar circumstances.

Section-by-section Explanation for the Proposed Rule.

R18-2-702(A) This section clarifies those sources to which the Rule is applicable.

R18-2-702(B) This section prescribes the opacity limits for both attainment and nonattainment areas, and sets the effective date of the Rule.

R18-2-702(C) Unchanged.

R18-2-702(D) This section establishes the procedure by which sources in attainment and unclassifiable areas can petition the Director for an alternative opacity limit. All petitions must include a report showing that the source has exercised all practical means of reducing opacity and finds retrofit of the

facility to be "technically or economically infeasible."[1]

R18-2-702(E) This section establishes how the Director may grant the alternative opacity limit for sources which meet the requirements of subsection (D), and provide for its implementation as a proposed significant permit revision.

R18-2-702(F) This section establishes the procedure by which sources in nonattainment areas can petition the Director for an alternative opacity limit. The source must meet all requirements outlined in subsection (D), and allow the presence of the Administrator during stack tests.

R18-2-702(G) This section sets the circumstances under which the Director may grant a petition for an alternative opacity limit under subsection (F), and includes submittal of the opacity limit as a proposed revision to the state implementation plan to the EPA for review and approval.

R18-2-702(H) Unchanged.

R18-2-702(I) This section creates an exception to the general opacity limit for emergency fuel-switching, such as from natural gas to diesel fuel for sources in attainment or nonattainment areas.

6. A reference to any study relevant to the rule that the agency proposes to rely on in its evaluation of or justification for the proposed rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study

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[1] Technical and economic feasibility are two of the criteria used to determine whether a control method meets the requirements of RACM/RACT. See, 63 FR 15931-15933, (April 1, 1998) Promulgation of Federal Implementation Plan for Arizona-Phoenix Metro Area Moderate Area PM-10; Disapproval of State Implementation Plan for Arizona-Phoenix Moderate Area PM-10; Proposed Rule. See also, 59 FR 156, 157 (August 16, 1994) State Implementation Plan for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.

and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

A. Rule Identification

This rulemaking amends R18-2-702, "General Provisions," in Article 7, Chapter 2, Title 18. The proposed rule sets a statewide 20 percent opacity limit for sources that do not have an opacity limit specified elsewhere and whose emissions are not governed by new source performance standards (NSPS), and outlines the procedure by which a source can obtain an adjustment to its opacity standard.

B. Entities Directly Impacted

Entities directly impacted by this rulemaking include certain permitted sources, pollution control vendors, contractors, consultants, lawyers, ADEQ, private persons and consumers. ADEQ estimates that as few as 20-30 sources might be affected by this rulemaking. Although many industry categories, including stationary rotating machinery (oil- or coal-fired generators and turbines), lime manufacturing plants, nonferrous metals industry sources, gravel or crushed stone processing plants, sand blasting operations, and cotton gins are potentially subject to R18-2-702, most of these sources will be unaffected by this rule as they are already subject to 20%, or lower, opacity standards, or are regulated by New Source Performance Standards (NSPS), Title 40, Part 60 of the Code of Federal Regulations. In addition, the rule includes a process by which those sources that are affected might

apply for an alternative opacity limit, thus lessening the potential impact even further.

C. Probable Costs and Benefits

1) Costs to the State of Arizona

If ADEQ does not correct the R18-2-702 deficiencies so that EPA can approve them by April 23, 2004, Arizona will be subject to sanctions under § 179 of the Clean Air Act (CAA). Sanctions include loss of highway funds and stricter emission offset requirements for major sources. In addition, under § 110(c) of the CAA, EPA would then need to promulgate a Federal Implementation Plan no later than October 23, 2004.

2) Potential Costs and Benefits to the Public

The most obvious benefit arising from promulgation of this rule is reduction in the harmful effects of air pollution, most notably particulates. Air pollution harms lung function, damages lung tissue, and increases respiratory symptoms, such as coughing, shortness of breath, wheezing and asthma attacks, and can impair the body's immune system response to inhaled particles. Results may include restricted activities, and work time and revenues lost due to increased hospital admissions, illness and death. PM associated health risks occur even more frequently in susceptible subpopulations, such as the elderly, children with asthma, and persons with cardiopulmonary disease, and may contribute to up to 65,000 excess deaths in the U.S. annually (STAPPA and ALAPCO, *Controlling Particulate Matter Under the Clean Air Act: A Menu of Options, July 1996)*. Even very low concentrations of particulate matter may increase risk of early death, particularly in elderly populations with preexisting cardiopulmonary diseases (STAPPA and ALAPCO, *supra*). Chronic obstructive pulmonary disease (COPD), a major cause of morbidity and mortality in the U.S., cost the country more than 32 billion dollars in 2002, a figure which does not include costs attributable to asthma

(American Lung Assoc., "Trends in Chronic Bronchitis and Emphysema: Morbidity and Mortality," Epidemiology and Statistics Unit, Research and Scientific Affairs, March 2003). Notably, asthma death rates in Arizona equaled or exceeded U.S. rates from 1991-1998. In addition, in 1998, an estimated 316,200 Arizonans suffered breathing discomfort and asthma related stress (Arizona Department of Health Services, "Asthma Control Program," Office of Nutrition and chronic Disease Prevention Services, October, 2002). Therefore, ADEQ expects a statewide reduction in the opacity limit to translate into cost-saving benefits to the general public by reducing emissions-related adverse health effects and the concurrent lost revenue and health care costs.

In addition to direct health-related effects, a statewide opacity limit of 20% will affect the general quality of life, particularly for those persons living near sources. A lower opacity limit will concurrently increase visibility and enhance the public's enjoyment of Arizona's natural resources.

3) Potential Costs and Benefits to the Regulated Community

Although each regulated facility is unique, the costs of compliance associated with the new rule are similar and may include: new capital equipment or modification of existing equipment, adjusting or enhancing operations and maintenance; replacement or modification of processes and designs; and indirect and administrative costs. Compliance might also result, however, in a variety of offsetting financial benefits for the source. They range from lower operation and maintenance costs, as a result of updated and more efficient equipment, to fewer man-hours lost and lower health care costs due to a decrease in pollution-exacerbated illnesses. ADEQ is specifically requesting in this preliminary EIS source-specific information on costs to achieve a 20% opacity, and any intentions to petition for an alternative opacity limit.

ADEQ has received general cost information from one source during the stakeholder process. This source, an older coal-fired electric power plant has indicated that it may cost up to $11 million to design and construct a baghouse in order to comply with a 20% opacity limit. Although the source is investigating the possibility of petitioning for an alternative opacity limit, it is possible that the baghouse will help it meet federal air pollution requirements coming due over the next several years.

D. Small Business Analysis

Several small business categories were represented during the stakeholder process for this proposed rule. ADEQ has not identified all small businesses that could be affected by this rulemaking, however, those who did participate did not express any reservations about compliance. ADEQ has considered a variety of methods to reduce the impact of this rule on small businesses, including five methods prescribed by A.R.S. § 41-1035: establish less stringent compliance or reporting requirements; establish less stringent schedules or deadlines for compliance or reporting requirements; consolidate or simplify the rulemaking's reporting requirements; establish performance requirements to replace design or operational standards; or exempt them from some or all of the rule requirements. For the reasons stated in part 5 of the preamble, and due to the inherent difficulty in identifying all sources which are small businesses, including the possibility that such status may change from year to year, ADEQ has determined that it is not feasible to apply a separate opacity standard to small businesses.

ADEQ does employ an ombudsman in the Office of Media Relations, to whom small businesses may address their issues with regard to compliance with the rule.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	David Lillie
Address:	ADEQ, Air Quality Planning Section, 1110 West Washington, Phoenix, AZ 85007
Telephone:	(602) 771-4461 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for a specific number.)
Fax:	(602) 771-2366
E-mail:	Lillie.David@ev.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Date:	September 8, 2003
Time:	1:30 p.m.
Location:	ADEQ, 1110 W. Washington St. Phoenix, Arizona, Conference Room 250

Nature:	Oral Proceedings with opportunity for formal comment on the record
Close of Comment:	5 pm, Friday, September 12, 2003

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporation by reference and their location in the rule:

Not applicable

13. The full text of the rule follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

Section

R18-2-702. General Provisions . . . . . Amend

R18-2-702. General Provisions

A. The provisions of this Article shall only apply to ~~existing sources~~ a source that is all of the following:

1. An existing source, as defined in R18-2-101;
2. A point source; for the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
3. A stationary source, as defined in R18-2-101.

B. Except as otherwise provided in this ~~Article~~ Chapter relating to specific types of sources, or in subsection (I) of this section, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall be as follows:

~~1. Shall not be greater than 40 % and~~

1. Unless an alternative opacity limit is approved by the Director and the Administrator as provided in subsections (F) and (G), after the effective date of this rule, opacity shall not be greater than 20 percent in an area that is nonattainment or maintenance for any particulate matter standard;

~~2. Shall be determined by reference Method 9 in 40 CFR 60, Appendix A~~.

2. Until midnight, April 23, 2006, opacity shall not be greater than 40 percent in an area that is attainment or unclassifiable for each particulate matter standard; and

3. Except as provided in subsections (D) and (E), after April 23, 2006, opacity shall not be greater than 20 percent in any area that is attainment or unclassifiable for each particulate matter standard.

C. Where the presence of uncombined water is the only reason for the exceedance of any visible emissions requirements in this Article, such exceedance shall not constitute a violation.

D. A person owning or operating an air pollution source in an area that is attainment or unclassifiable for each particulate matter standard may ~~ask~~ petition the Director for ~~a determination on meeting the requirements of the~~ an alternative applicable opacity ~~standard~~ limit. The petition shall be submitted to ADEQ by April 15, 2004 and shall contain items 1 through 6 below if the unit for which the alternative limit is requested is subject to a stack test, and items 4 through 6, if the unit is either not subject to a stack test, or a valid stack test cannot be conducted on the unit during the times when an alternative opacity limit would apply:

~~1. The owner or operator shall submit the written reports of the results of the performance tests, the opacity observation results, and observer certification.~~

1. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall show clear demonstration of compliance with the applicable particulate mass emission limitation by being at least 10% below the limit. For multiple units which are normally operated together and whose emissions vent through a single stack, simultaneous particulate testing of each unit shall be conducted. Each control device shall be in good operating condition and

operated consistent with good practice for minimizing emissions.

~~2. If the Director finds that the facility is in compliance with all applicable standards for the performance test and still fails to meet the applicable opacity standard, he shall notify the owner or operator of the finding.~~

2. Evidence that the stack tests were conducted according to R18-2-312, and witnessed by the Director.

~~3. The owner or operator may petition the Director within 10 days of receipt of notification, asking the Director to make an appropriate adjustment to the opacity standard for the facility.~~

3. Evidence that the affected facility and the associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.

~~4. The Director shall grant the petition after public notice and opportunity for public hearing takes place and upon a demonstration by the owner or operator that:~~

~~a. The affected facility and the associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance test.~~

~~b. The performance tests were performed under the conditions established by the Director.~~

~~c. The affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity requirement.~~

4. Documentation that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable

opacity standard. This shall include:

a. Relevant information on the process operating conditions and the control device's operating conditions during the opacity or stack tests;

b. A detailed statement or report demonstrating that the source has investigated all practicable means of reducing opacity and has utilized control technology that is reasonably available considering technical and economic feasibility; and

c. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable mass rule.

~~5. The Director shall establish an opacity standard for the affected facility based on the determination made in subsection (D)(4). The opacity standard shall be set at a level indicated by the performance and opacity tests, providing that the source will be able to meet the mass or concentration standard and the opacity standard at all times. Such opacity standard shall be incorporated as a condition of the permit for the affected facility.~~

5. If there is an opacity monitor, any certification and audit reports as required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.

~~6. The Director shall publish the opacity standard once in 1 or more newspapers of general circulation in the county or counties concerned.~~

6. A certification by a responsible official of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

E. If the Director receives a petition under subsection (D) and determines that the requirements

of (D)(1) through (D)(6) have been met, the Director shall approve or deny the petition by October 15, 2004.

1. If the petition is approved, the Director shall include an alternative opacity limit in a proposed significant permit revision for the source under R18-2-320 and R18-2-330. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units which are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
2. If the petition is denied, the source shall comply with the 20% opacity limit by April 23, 2006, or apply for a compliance schedule under R18-2-309(5)(c)(iii) in a significant permit revision.

F. A person owning or operating an air pollution source in an area that is nonattainment or maintenance for any particulate matter standard may petition the Director for an alternative opacity limit. The petition must be submitted to ADEQ by April 15, 2004, and shall contain the items required by subsections (D)(1) through (D)(6):

1. Except that in (D)(2), the stack tests shall be conducted with an opportunity for the Administrator to also be present, and
2. Except that in (D)(4)(b), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology.

G. If the Director receives a petition under subsection (F) and determines that the requirements of subsections (F)(1) and (F)(2) have been met, the Director shall approve or deny the

petition by October 15, 2004. If the petition is approved, the Director shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval.

~~E.~~**H.** The process weight rate utilized in this Article shall be determined as follows:

1. For continuous or long run, steady-state process sources, the process weight rate shall be the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.
2. For cyclical or batch process sources, the process weight rate shall be the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.

I. For excepted sources, opacity may exceed the applicable limits established in subsection (B) for up to one hour during the start up of switching to or back from an emergency fuel; however, opacity shall not exceed 40% for any six (6) minute averaging period in this one hour period, provided the Director finds that the owner or operator has, to the extent practicable, maintained and operated the source of emissions in a manner consistent with good air pollution control practices for minimizing emissions. The one hour period shall begin at the moment of startup of fuel switching. For the purposes of this subsection:

1. Excepted sources shall include only the following for which construction commenced prior to May 10, 1996:
   a. Electric utility steam generating units or cogeneration steam generating units used to generate electric power that has a heat input of equal to or greater than 100 million (MM) Btu/hour (29 megawatts); and
   b. Electric utility stationary gas turbines with a heat input at peak load equal to

or greater than 10 MM Btu/hour (2.9 MW) based upon the lower heating value of the fuel.

2. "Fuel switching" means the act of changing from one type of fuel to a different type of fuel.

3. "Emergency fuel" means fuel fired only during circumstances such as natural gas emergency, natural gas curtailment, or breakdown of delivery system such as an unavoidable interruption of supply that makes it impossible to fire natural gas in the unit. Fuel is not considered emergency fuel if it is used to avoid either peak demand charges or high gas prices during on-peak price periods or due to a voluntary reduction in natural gas usage by the power company.

4. "Natural gas curtailment" means an interruption in natural gas service, such that the daily fuel needs of a combustion unit cannot be met with natural gas available due to one of the following reasons, beyond the control of the owner or operator:

   a. An unforeseeable failure or malfunction, not resulting from an intentional act or omission that the governing state, federal or local agency finds to be due to an act of gross negligence on the part of the owner or operator;

   b. A natural disaster;

   c. The natural gas is curtailed pursuant to governing state, federal or local agency rules or orders; or

   d. The serving natural gas supplier provides notice to the owner or operator, that, with forecasted natural gas supplies and demands, natural gas service is expected to be curtailed pursuant to governing state, federal or local agency rules or orders.

5. Determination of whether good air control practices are being used shall be based on

information provided to the Director upon request, which may include, but is not limited to, the following:

a. Monitoring results;

b. Opacity observations;

c. Review of operating and maintenance procedures; and

d. Inspection of the source.

Attachment 3

Previous General Opacity Rule,
(SIP-Approved) A.A.C. R9-3-501

particulate matter from becoming airborne. Reasonable precautions shall mean wetting, chemical stabilization, revegetation or such other measures as are approved by the Director.

Historical Note

Adopted eff. May 14, 1979 (Supp. 79-1). Amended eff. Oct. 2, 1979 (Supp. 79-5).

R9-3-409. Agricultural practices

No person shall cause, suffer, allow or permit the performance of agricultural practices including but not limited to tilling of land and application of fertilizers without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Adopted eff. May 14, 1979 (Supp. 79-1).

R9-3-410. Evaluation of non-point source emissions

Opacity of an emission from any non-point source shall not be greater than 40 percent measured in accordance with the Arizona Testing Manual, Reference Method 9. Open fires permitted under R9-3-402 and R9-3-403 are exempt from this requirement.

Historical Note

Adopted eff. May 14, 1979 (Supp. 79-1).

ARTICLE 5. EXISTING STATIONARY POINT SOURCE PERFORMANCE STANDARDS

R9-3-501. Visible emissions: general

A. Except as otherwise provided in these Regulations relating to specific types of sources, the opacity of any plume or effluent shall not be greater than 40 percent as determined by reference method 9 in the Arizona Testing Manual.

B. Where the presence of uncombined water is the only reason for the exceedance of any visible emissions requirements in these Regulations, such exceedance shall not constitute a violation of these Regulations.

C. Upon written application to the Director, a person owning or operating an air pollution source may request that a visible emissions evaluation be conducted by the Bureau during a particulate emissions test demonstrating compliance with a particulate emission standard. The visible emissions opacity during a particulate emission test demonstrating compliance shall, if greater than the opacity standard of Subsection A., above, and after notice and opportunity for public hearing in accordance with 40 CFR 51.4, serve as the visible emissions standard for the source. Such visible emissions standard shall be incorporated as a condition of the operating permit for the

air pollution source.

D. Application of A. and B. of this Section shall be stayed only with regard to existing copper smelters until the compliance date specified in Section R9-3-515, in a nonferrous smelter order, in a consent decree or in a delayed compliance order.

Historical Note

Former Section R9-3-501 repealed, new Section R9-3-501 adopted eff. May 14, 1979 (Supp. 79-1). Amended eff. Oct. 2, 1979 (Supp. 79-5). Amended eff. July 9, 1980 (Supp. 80-4). Amended Subsection D. eff. June 19, 1981 (Supp. 81-3). Amended Subsections C. and D. eff. Feb. 2, 1982 (Supp. 82-1). Amended Subsection D. eff. May 25, 1982 (Supp. 82-3).

R9-3-502. Unclassified sources

A. No existing major source which is not otherwise covered under any other Section of these Regulations shall cause or permit the emission of pollutants at rates greater than the following:

1. No person shall cause, suffer, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any unclassified process source in total quantities in excess of the amounts calculated by the equations set forth below.

a. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

P = the process weight in tons-mass per hour.

b. For process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11} - 40$$

where "E" and "P" are defined as indicated in A.1.a. above.

2. For purposes of this Regulation, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.

3. For reference only, the equations in A.1. above are plotted in Appendix 11, Figure 2. The emission values obtained from the graph are approximately correct for the process weight rates shown. However, the actual values shall be calculated from the applicable equations and rounded off to two decimal places.

4. Sulfur dioxide — 600 parts per million.

5. Nitrogen oxides expressed as NO_2 — 500 parts per million.

Attachment 4

Definitions for Proposed SIP Inclusion,
A.A.C. R18-2-101(41, and 111)

any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

36. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.
37. "Emission standard" or "emission limitation" means a requirement established by the state, a local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
38. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant.
39. "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated under R18-2-311(D) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
40. "Excess emissions" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.
41. "Existing source" means any source which does not have an applicable new source performance standard under Article 9 of this Chapter.
42. "Federal applicable requirement" means any of the following as they apply to emissions units covered by a Class I or II permit (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):
    a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
    b. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act.
    c. Any standard or other requirement under Section 111 of the Act, including Section 111(d).
    d. Any standard or other requirement under Section 112 of the Act, including any requirement concerning accident prevention under Section 112(r)(7) of the Act.
    e. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder and incorporated pursuant to R18-2-333.
    f. Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Act.
    g. Any standard or other requirement governing solid waste incineration, under Section 129 of the Act.
    h. Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act.
    i. Any standard or other requirement for tank vessels under Section 183(f) of the Act.
    j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the Act.
    k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.
    l. Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act.
43. "Federal Land Manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.
44. "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:
    a. The requirements of the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants contained in Articles 9 and 11 of this Chapter;
    b. The requirements of such other state or county rules or regulations approved by the Administrator, including the requirements of state and county operating and new source review permit programs that have been approved by the Administrator;
    c. The requirements of any applicable implementation plan;
    d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements, which are entered into voluntarily by a source pursuant to R18-2-306.01.
45. "Final permit" means the version of a permit issued by the Department after completion of all review required by this Chapter.
46. "Fixed capital cost" means the capital needed to provide all the depreciable components.
47. "Fuel" means any material which is burned for the purpose of producing energy.
48. "Fuel burning equipment" means any machine, equipment, incinerator, device or other article, except stationary rotating machinery, in which combustion takes place.
49. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
50. "Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.
51. "Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.
52. "Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in R18-2-332.
53. "Heat input" means the quantity of heat in terms of Btu's generated by fuels fed into the fuel burning equipment under conditions of complete combustion.
54. "Incinerator" means any equipment, machine, device, contrivance or other article, and all appurtenances thereof, used for the combustion of refuse, salvage mate-

Particulate matter	25 tpy
PM_{10}	15 tpy
VOC	40 tpy
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5×10^{-6} tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tpy

b. In ozone nonattainment areas classified as serious or severe, significant emissions of VOC shall be determined under R18-2-405.

c. For a regulated air pollutant that is not listed in subsection (a), is not a Class I or II substance listed in Section 602 of the Act, and is not a hazardous air pollutant according to A.R.S. § 49-401.01(11), any emission rate.

d. Notwithstanding the emission amount listed in subsection (a), any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than 1 $\mu g/m^3$ (24-hour average).

105. "Smoke" means particulate matter resulting from incomplete combustion.

106. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

107. "Stack in existence" means that the owner or operator had either:

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack;

b. Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

108. "Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

109. "State implementation plan" (SIP) means the plan adopted by the state of Arizona which provides for implementation, maintenance, and enforcement of such primary and secondary ambient air quality standards as are adopted by the Administrator, pursuant to the Act.

110. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.

111. "Stationary source" means any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49-426(A) which emits or may emit any air pollutant. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987".

112. "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.

113. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for five years or less, and that complies with the SIP and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

114. "Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01(23) and which is not an affected source.

115. "Total reduced sulfur" (TRS) means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.

116. "Total suspended particulate" (TSP) means particulate matter as measured by the reference method described in 40 CFR 50, Appendix B, plus any particulate matter from fugitive emissions quantified by methods approved by the Director.

117. "Trivial activities" means activities and emissions units, such as the following, that may be omitted from a Class I or Class II permit application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:

a. Combustion emissions from propulsion of mobile sources;

b. Air-conditioning units used for human comfort that do not have applicable requirements under title VI of the Act;

c. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;

d. Non-commercial food preparation;

e. Janitorial services and consumer use of janitorial products;

f. Internal combustion engines used for landscaping purposes;

g. Laundry activities, except for dry-cleaning and steam boilers;

h. Bathroom and toilet vent emissions;

i. Emergency or backup electrical generators at residential locations;

j. Tobacco smoking rooms and areas;

k. Blacksmith forges;

l. Plant maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting,

Attachment 5

Previous SIP-Approved Definitions,
A.A.C. R9-3-101

would have the potential to emit any pollutant subject to regulation under this Chapter.

59. "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Director's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

60. "Excess emissions" or "emissions in excess of an emission limitation" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.

61. "Excessive concentrations" for the purpose of determining good engineering practice stack height in a fluid model or field study means a maximum concentration due to downwash, wakes, or eddy effects produced by structures or terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

62. "Existing source" means any source which commenced replacement, erection, installation or making a major alteration of the type described in R9-3-301 (installation permit) prior to May 14, 1979.

63. "Existing source performance standards" means emission standards applicable to existing sources.

64. "Facility" means an identifiable piece of stationary process equipment along with all associated air pollution equipment.

65. "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

66. "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator. This includes but is not limited to the requirements of the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants contained in Articles 8 and 9 of these Rules and Regulations; the requirements of such other State or County rules or regulations approved by the Administrator for inclusion in the Arizona SIP; and the requirements of any Federal regulation promulgated by the Administrator as part of the Arizona SIP.

67. "Fixed capital cost" means the capital needed to provide all the depreciable components.

68. "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

69. "FR" means Federal Register. Standard reference in these Rules and Regulations is by Volume, Page and Date, i.e., "43 FR 46246, October 5, 1978" means "Volume 43 of the Federal Register of October 5, 1978 at page 46246".

70. "Fuel" means any material which is burned for the purpose of producing energy.

71. "Fuel burning equipment" means any machine, equipment, incinerator,

154. "Standard conditions" means a temperature of 293K (68°F or 20°C) and a pressure of 101.3 kilopascals (29.92 in. Hg or 1013.25mb).

155. "Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

156. "State implementation plan" (SIP) means the plan adopted by the State of Arizona which provides for implementation, maintenance, and enforcement of such primary and secondary ambient air quality standards as are adopted by the administrator.

157. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.

158. "Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under this Chapter.

a. The following are not considered stationary sources for purposes of these Regulations:

i. Motor vehicles

ii. Fuel burning equipment which, in the aggregate with such other equipment of the applicant at the same location of property, other than a one or two family residence, is rated at less than 500,000 Btu's per hour.

iii. Agricultural vehicles or agricultural equipment used in normal farm operations.

b. "Building", "structure", "facility", or "installation" means, for sources located in attainment areas, all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the "Standard Industrial Classification Manual, 1972", as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

c. "Building", "structure", or "facility" means, for sources located in nonattainment areas, all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the "Standard Industrial Classification Manual, 1972", as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

d. "Installation" means, for sources located in nonattainment areas, an identifiable piece of process equipment.

Attachment 6

Notice of Final Rulemaking,
A.A.C. R18-2-702

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE
AGRICULTURAL COUNCILS AND COMMISSIONS

R3-9-501. Definitions
"Department" means the Arizona department of agriculture. A.R.S. § 3-468(3).

R3-9-502. Elections
A. The Council shall elect officers during the first quarter of each calendar year.
B. Officers shall continue in office until the next annual election is held.
C. An officer may be successively reelected.

R3-9-503. Hearings
A. The Council shall use the uniform administrative procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern any hearing before the Council.
B. A party may file a motion for rehearing or review under A.R.S. § 41-1092.09.
C. The Council shall grant a rehearing or review of an administrative law decision for any of the following causes materially affecting the moving party's rights:
1. The decision is not justified by the evidence or is contrary to law;
2. There is newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original proceeding;
3. One or more of the following deprived the party of a fair hearing:
   a. Irregularity or abuse of discretion in the conduct of the proceeding;
   b. Misconduct of the Council, the administrative law judge, or the prevailing party; or
   c. Accident or surprise that could not have been prevented by ordinary prudence; or
4. Excessive or insufficient sanction.

D. The Council may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.

R3-9-504. Annual Report
The Council shall prepare an annual report as prescribed under A.R.S. § 3-468.02(A)(5), by October 31.

R3-9-505. Records
The Department shall retain the Council's records as authorized by A.R.S. § 3-468.02(A)(4). A record may be reviewed at the Department's main office, Monday through Friday, except an Arizona legal holiday, during the hours of 8:00 a.m. to 5:00 p.m. A copy of a record shall be provided according to the provisions of A.R.S. § 39-121 et seq.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

PREAMBLE

1. Sections Affected — **Rulemaking Action**
R18-2-702 — Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing and implementing statutes: A.R.S. §§ 49-104(A)(11), 49-404, and 49-425

3. The effective date of the rule:
February 3, 2004

4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Rulemaking Docket Opening: 9 A.A.R. 2282, July 3, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 3489, August 8, 2003

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Kevin Force, Air Quality Division

Address: ADEQ
1110 W. Washington
Phoenix, AZ 85007

Telephone: (602) 771-4480 (Any ADEQ number may be reached in state by dialing 1-800-234-5677 and asking for the seven digit extension.)

Fax: (602) 771-2366

E-mail: kf1@ev.state.az.us

6. An explanation of the rule, including the agency's reasons for initiating the rule:

Summary. ADEQ has finalized changes to R18-2-702 to establish a statewide 20% opacity limit for certain categories of stationary point sources. The final rule also sets forth a process by which a source may petition the Director for an alternative opacity limit. The revisions respond to the recent EPA disapproval to R18-2-702 as a revision of the Arizona State Implementation Plan (SIP).

Background. On September 23, 2002, EPA disapproved R18-2-702 as a revision of the Arizona SIP, and directed Arizona to correct deficiencies in the rule (67 FR 59546). EPA found R18-2-702 deficient in three respects: its scope of applicability, the failure of a 40% opacity limit to meet Reasonably Available Control Measures (RACM) requirements for moderate PM_{10} nonattainment areas, and the ADEQ Director's ability to adjust the opacity standard in nonattainment areas without EPA approval. EPA will impose sanctions on Arizona if the deficiencies are not corrected and approved by EPA by April 23, 2004.

No rule revisions were necessary to correct the scope of applicability (SIP relaxation) deficiency. ADEQ demonstrates in the SIP revision that R18-2-702 is not a SIP relaxation because it applies to more sources than does R9-3-501, an earlier opacity rule that is currently in the SIP. ADEQ's final amendment of R18-2-702 establishing a statewide 20% opacity standard satisfies the RACM requirement deficiency. Finally, ADEQ has made rule changes to include EPA review and approval of alternative opacity standards for sources in nonattainment areas.

Before proposing this rule, ADEQ notified and solicited comment from over 180 stakeholders and interested parties in an effort to create a rule that addresses the needs of both the general public and the regulated community. They range from state, federal, and local governments and agencies, to regulated businesses and environmental groups. Stakeholder meetings were regularly attended by 20 or more representatives from various parties. The changes to R18-2-702 are the result of this extensive cooperative effort with stakeholders and other interested parties.

Since September 23, 2002, EPA has clarified that it is only requiring R18-2-702 to meet RACM in PM_{10} nonattainment areas. Nevertheless, this final rule establishes a statewide general opacity limit of 20%, and outlines the process by which sources can receive an alternative opacity standard, subject to the Director's discretion and, in the case of nonattainment areas, the review and approval of the EPA. This final rule allows petitions for alternative limits in both attainment and nonattainment areas until May 15, 2004. This is a little more than three months from the expected effective date of the rule, February 2. The 20% standard is first effective in attainment areas on April 23, 2006. This delay should allow sources that believe they cannot meet the new standard to assemble the documentation necessary to show the need for an alternative limit, and give sources the opportunity, in their documentation, to suggest what alternative opacity limit they would be able to achieve. In order to obtain an alternative opacity limit, a source must show that it is meeting its particulate mass emission limits, while doing everything it can to meet opacity. ADEQ is committed to act upon any petition by October 15, 2004.

In order to obtain an approximate count of sources that may apply for an alternative opacity limit under the new rule, ADEQ requested any source that might petition for one to indicate so in a comment to this rule. Only one source (located in an attainment area) indicated that they might petition for an alternative limit under the new rule.

In research over the past year, ADEQ has found that 20% opacity or lower is being applied throughout the country for all types of sources. Because many of these source types (example: sand & gravel operations) operate throughout Arizona, 20% is reasonable to apply statewide in Arizona without unduly burdening the regulated community. To ADEQ's knowledge, only one source has had difficulty complying with the current 40% opacity standard, and it did apply for an alternative limit under the former rule. ADEQ expects the 20% limit to actually impact very few sources in attainment areas. Moreover, a statewide 20% opacity limit best serves the public health and welfare. Enforcement of a statewide limit would limit the problem of transport of pollutants from attainment to nonattainment areas. This is especially important for particulates, which many times pollute in nearby areas more than being transported long distances.

ADEQ also found that it would be more difficult and inefficient for both sources and regulators to keep track of the correct standards if the area covered by R18-2-702, previously subject to just a 40% standard, was divided up further into contiguous 20% and 40% areas. Maricopa County previously made the same choice as ADEQ: although the county contains a PM10 nonattainment area, county regulators have made 20% opacity the general limit throughout the entire county. (See Maricopa County Air Pollution Control Regulations, Rule 300, Section 301)

Under R18-2-325(B)(5), ADEQ will require compliance with the new opacity limits on the effective dates provided for in subsection (B) of this final rule, unless a source indicates that it may apply for an alternative opacity limit. Because some sources in attainment areas may not be as familiar with the rulemaking process as others, the final rule gives sources in attainment areas two years from the expected date of EPA approval to comply. Thus, affected sources in attainment areas planning to make any needed equipment changes will have two full business infrastructure cycles in which to obtain capital, design the changes, purchase equipment, conduct tests, and operate controls necessary to comply with the 20% limit, if they don't apply for an alternative limit. For all sources, ADEQ expects that it will eventually reopen, revoke and reissue, or renew permits that contain 40% opacity limits from the former R18-2-702 to incorporate the new 20% limit.

The statewide 20% opacity limit also serves economic equity and efficiency. ADEQ found that competition could be adversely affected by the introduction of differing opacity limits based on attainment status. Before this final rule, there was no opacity-related reason for a source to locate inside or outside of a PM_{10} nonattainment area; the standard was 40% everywhere. If ADEQ kept attainment areas at 40%, sources, particularly portable sources, would have been able to relocate just outside a nonattainment area in order to avoid any compliance costs associated with a lower opacity limit, allowing those sources to enjoy an unfair advantage over those remaining on the nonattainment side of the area.

During workshops on this rule, some sources requested that exceptions to the 20% opacity standard be written directly into R18-2-702 for certain source conditions related to startup, shutdown, and malfunction. ADEQ declined, noting that it already has rule language that covers these situations in R18-2-310, Affirmative Defenses for Excess Emissions Due to Malfunctions, Startup, and Shutdown. In addition, certain sources requested that exceptions be written into the rule for more routine opacity variations related to "load-shifting"—that is, increasing or decreasing the amount of fuel being sent into the power generating equipment in order to respond to a need for increased or decreased power. ADEQ believes that exceptions for such routine operations would defeat the purpose of having a general opacity standard, and will be better handled under the revised alternative opacity limit procedure. ADEQ expects that the alternative limits it approves under subsection (D) will only apply during those periods where the source shows it cannot meet the 20% limit, and not during the entire operating period.

Subsection-by-subsection Explanation of the Final Rule.

R18-2-702(A) This subsection clarifies those sources to which the Rule is applicable.

R18-2-702(B) This subsection establishes opacity limits and effective dates for both attainment and nonattainment areas.

R18-2-702(C) This subsection is largely unchanged; only minor changes were made to increase the rule's conciseness and understandability.

R18-2-702(D) This subsection establishes the procedure by which sources can petition the Director for an alternative opacity limit. All petitions must include a report showing that the source has exercised all practical means of reducing opacity and has utilized control technology that is reasonably available considering technical and economic feasibility.[1]

[[1]Technical and economic feasibility are two of the criteria used to determine whether a control method meets the requirements of RACM/RACT. See, 63 FR 15931-15933, (April 1, 1998) Promulgation of Federal Implementation Plan for Arizona-Phoenix Metro Area Moderate Area PM-10; Disapproval of State Implementation Plan for Arizona-Phoenix Moderate Area PM-10; Proposed Rule. See also, 59 FR 156, 157 (August 16, 1994). State Implementation Plan for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.]

R18-2-702(E) This subsection establishes how the Director may grant the alternative opacity limit for sources which meet the requirements of subsection (D), and provide for its implementation as a proposed significant permit revision.

R18-2-702(F) This subsection, subsection (H) in the prior version of the rule, has undergone minor changes to increase the rule's conciseness and understandability.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

"The EPA's Particulate Matter (PM) Health Effects Research Center's Program," prepared by PM Centers Program staff, January 2002

"Health Effects of Particulate Air Pollution: What Does The Science Say?" Hearing before the Committee on Science, House of Representatives, 107th Congress of the U.S., second session, May 8, 2002

STAPPA and ALAPCO, *Controlling Particulate Matter Under the Clean Air Act: A Menu of Options*, July 1996

American Lung Assoc., "Trends in Chronic Bronchitis and Emphysema: Morbidity and Mortality," Epidemiology and Statistics Unit, Research and Scientific Affairs, March 2003

Arizona Department of Health Services, "Asthma Control Program," Office of Nutrition and Chronic Disease Prevention Services, October, 2002

These documents are on file at the ADEQ library, 1110 W. Washington, Phoenix, AZ, (602) 771-2217.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

A. Rule Identification

This rulemaking amends R18-2-702, "General Provisions," in Title 18, Chapter 2, Article 7. The rule sets a statewide 20% opacity limit for point sources that do not have an opacity limit specified elsewhere and whose emissions are not governed by federal new source performance standards (NSPS), and outlines the procedure by which a source can obtain an adjustment to its opacity standard.

B. Entities Directly Impacted

Entities directly impacted by this rulemaking include certain permitted sources, pollution control equipment vendors, contractors, consultants, lawyers, ADEQ, private persons and consumers. In the preliminary EIS, ADEQ estimated that as few as 20-30 permitted sources might be impacted, which is a small subset of permitted sources in Arizona. Since almost no sources were violating the 40% standard, based on ADEQ records, it was not readily apparent how many sources could not meet a 20% standard. It was thought that many sources were already in compliance with a 20%, or lower, opacity limit, or subject to other source-specific opacity standards. Still other sources were regulated by New Source Performance Standards, under 40 CFR, Part 60, and thus not subject to R18-2-702.

B.1 Information related to A.R.S. § 41-1055(C)

After the request for information in the preliminary EIS, and ADEQ's receipt of no further source-specific cost information, ADEQ considered whether adequate data was reasonably available under A.R.S. § 41-1055(C) to comply with the requirements of A.R.S. § 41-1055(B). Although ADEQ determined that it has adequate data to proceed with this rule, it nevertheless submits the following information under A.R.S. § 41-1055(C).

ADEQ attempted to obtain specific information about the affects of this rule on sources in at least three ways. First, it held seven pre-proposal workshops on this rule and mailed or faxed notices of these workshops to a list of about 180 stakeholders. Second, it requested in its Notice of Proposed Rulemaking that any source that thought it would be affected by this rule supply cost and impact information to ADEQ. Finally, ADEQ did a survey of its own records to estimate how many permitted sources could be affected. It should be noted that ADEQ's permit database could not be used directly to report on the desired information, since permits are not indexed according to whether or not they are subject to R18-2-702, or for that matter, any rule. Under its records survey, ADEQ:

1. Determined that sources in the following categories could be subject to the R18-2-702 opacity limit: mines, lime plants, crushing and screening, asphalt batch plants, and concrete batch plants.

2. Examined some sources in each of these source categories (both manually, by reading the file, and with software, where possible) to attempt to determine how many sources in each category were, in fact, subject to R18-2-702. In this step, sources that were Title V for fee purposes were excluded, since they would be subject to NSPS and not subject to R18-2-702. This resulted in a spreadsheet with seven stationary and 264 portable sources permitted by ADEQ that probably have R18-2-702 in their permit.

3. Attempted to determine how many of the remaining sources would operate only in attainment areas, since the sources that did not would have to comply with 20% in nonattainment or maintenance areas anyway. ADEQ estimated that a only about one-third of the portable sources probably operate only in attainment areas. In other words, about two-thirds probably obtained their permit from ADEQ because they might operate both in and outside of Maricopa county (a nonattainment area for particulates) or both in and outside of the Tucson area (a maintenance area for particulates).

4. Estimated that the following sources from the original source categories probably had R18-2-702 in their permit and would possibly operate only in attainment areas: eight asphalt batch plants, 28 concrete batch plants, 55 crushing and screening plants, one lime plant, and five mine or mill sites.

Although any of these sources, or others, such as sand-blasting operations, or oil- or coal-fired generators, may be affected by this rule, with 1 exception, described in some detail below, ADEQ remains unaware of specific impacts affecting any these sources. Based on the above information, ADEQ continues to believe that a very small number of sources will be impacted.

It should be noted that some sources potentially impacted by R18-2-702 may be required to undertake particulate or opacity limiting control measures if Arizona has to implement control strategies necessary to comply with federal regulations on regional haze (see 40 CFR 308 and 309), or mercury (see EPA's Regulatory Agenda, May 27, 2003,

Sequence Number 3050). Under R18-2-702, sources affected by either of these federal regulations might only be required to move a little sooner to effect changes that could be required anyway.

C. Probable Costs and Benefits

1) Potential Costs and Benefits to ADEQ and the state of Arizona

The impact of R18-2-702 to ADEQ will be minimal. Although the Permits Section of the Air Quality Division will eventually have to revise certain permits to incorporate the 20% opacity limit, ADEQ does not anticipate any need for additional employees or resources. However, if ADEQ does not correct the R18-2-702 deficiencies so that EPA can approve the rule by April 23, 2004, Arizona will be subject to sanctions under § 179 of the Clean Air Act (CAA). Sanctions include loss of highway funds and stricter emission offset requirements for major sources. In addition, under § 110(c) of the CAA, EPA would then need to promulgate a Federal Implementation Plan no later than October 23, 2004.

2) Potential Costs and Benefits to the General Public and Consumers

ADEQ does not anticipate that the general public will experience any costs as a result of the rule, outside of a minor increase in costs for those goods and services that might be affected by the lower opacity limit. ADEQ has already estimated that only a few sources, and therefore any goods and services they offer, might be affected by the rule.

The most obvious benefit arising from promulgation of this rule is reduction of the harmful effects of air pollution, most notably particulates. Improvement in air quality, through the reduction of airborne particulates, will generate cost-saving benefits by avoiding adverse health effects, such as emergency room visits, hospital admissions, acute pediatric bronchitis, chronic adult bronchitis, acute respiratory symptom days, and even premature death. Additionally, a statewide opacity limit of 20% will improve the general quality of life for Arizona's citizens, particularly those residing near sources, by increasing visibility and enhancing the public's enjoyment of Arizona's abundant natural beauty and resources.

Potential benefits arising from a more stringent opacity standard can be inferred from data associated with the reduction of any airborne particulate matter, whether it be in nonattainment, attainment, or unclassifiable areas. Epidemiological evidence shows that particulates have negative health impacts in a variety of ways, including: increased mortality and morbidity; more frequent hospital admissions, emergency room and clinician visits; increased need and demand for medication; and lost time from work and school. There is also increasing evidence that ambient air pollution can precipitate acute cardiac episodes, such as angina pectoris, cardiac arrhythmia, and myocardial infraction, although the majority of particulate matter-related deaths are attributed to cardiovascular disease ("The EPA's Particulate Matter (PM) Health Effects Research Center's Program," prepared by PM Centers Program staff, January 2002).

New evidence also links exposure to ambient PM concentrations to airway inflammation that in turn produces systemic effects, such as acute phase response with increased blood viscosity and coagulability, as well as increased risk of myocardial infraction in patients with coronary artery disease. Chronic effects of repeated airway inflammation may also cause airway remodeling, leading to irreversible lung disease. Individuals with asthma and chronic obstructive pulmonary disease may be at even higher risk from repeated exposure to particulates ("The EPA's Particulate Matter (PM) Health Effects Research Center's Program," *supra*).

The Health Effects Institute, confirmed the existence of a link between particulate matter and human disease and death. The data revealed that long-term average mortality rates, even after accounting for the effects of other health effects, were 17-26% higher in cities with higher levels of airborne particulate matter ("Health Effects of Particulate Air Pollution: What Does The Science Say?" Hearing before the Committee on Science, House of Representatives, 107th Congress of the U.S., second session, May 8, 2002). Data further reveal that every 10-microgram increase in fine particulates per cubic meter produces a 6% increase in the risk of death by cardiopulmonary disease, and an 8% increase for lung cancer. Even very low concentrations of PM can increase the risk of early death, particularly in elderly populations with preexisting cardiopulmonary disease (STAPPA and ALAPCO, *Controlling Particulate Matter Under the Clean Air Act: A Menu of Options*, July 1996).

In 2002 alone, chronic obstructive pulmonary disease cost the U.S. more than $32 million, a sum not including costs attributable to asthma (American Lung Assoc., "Trends in Chronic Bronchitis and Emphysema: Morbidity and Mortality," Epidemiology and Statistics Unit, Research and Scientific Affairs, March 2003). In Arizona, deaths attributable to asthma have equaled or exceeded national rates from 1991-1998. In 1998, some 316,200 Arizonans suffered breathing discomfort or asthma related stress (Arizona Department of Health Services, "Asthma Control Program," Office of Nutrition and Chronic Disease Prevention Services, October, 2002). Thus, ADEQ expects a statewide reduction in the opacity limit to create commensurate costs-saving benefits to the general public by reducing these emissions-related health problems and their concurrent lost revenues.

3) Potential Costs and Benefits to the Regulated Community

Although each regulated facility is unique, the general costs of compliance associated with the new rule are similar and may include: new equipment or modification of existing equipment, adjustment or enhancement of operations and maintenance; replacement or modification of processes and designs; and indirect and administrative costs. Source-specific compliance costs are highly variable, depending on such factors as source category, technology,

equipment age, fuel type, facility size, operating capacity, etc. These costs might only include consideration of a single control technology, or might require a combination of controls and modifications. In addition to initial costs incurred for installation of pollution controls, sources would also need to consider ongoing costs for operation and maintenance of control equipment.

During the stakeholder process and public comment period on this rule, ADEQ received information about the rule's potential cost from just one source. This source is an older coal-fired electric power plant located in an attainment area for particulates. The source indicated that its continuous opacity meter recorded opacity greater than 20% for approximately 5.5% of its 2002 operating hours. The source submitted a cost of approximately $11 million for design and construction of a baghouse to comply with the 20% opacity limit. This cost was developed as part of its long-range forecast for EPA's Regional Haze and mercury MACT regulations. Although it is only a single source, this potential cost demonstrates the value of a provision for an alternative opacity limit. The source is investigating the possibility of petitioning for an alternative limit, although it is possible that the baghouse would enable it meet the federal air pollution requirements.

One possible reason for the lack of source-specific cost information mentioned above, is that, for some sources, operational modifications are possible to meet the 20% standard that would result in only minimal costs. The use of additional volumes of water to comply with the 20% opacity limit could be relatively minimal, estimated at $2.00 per 1000 gallons for nonpotable water or $5.00 per 1000 gallons for municipal water. The cost could vary based on source, location and annual usage requirements.

Compliance with the new opacity standard could also be rewarded with a variety of offsetting financial benefits. Such benefits might include lower operation and maintenance costs, as a result of updated and more efficient equipment, fewer lost man-hours and lower health care costs arising from a decrease in pollution-exacerbated illness, and more production, since a 40% opacity reading can mean that much product lost to the ambient air at the emissions point.

D. Small Business Analysis

Several small business categories were represented during the stakeholder process for the proposed rule. ADEQ has not identified all small businesses that could be affected by this rulemaking, however, those who did participate did not express any reservations about compliance with a 20% opacity limit. ADEQ has considered a variety of methods to reduce the impact of this rule on small businesses, including five methods prescribed by A.R.S. § 41-1035: establish less stringent compliance or reporting requirements; establish less stringent schedules or deadlines for compliance or reporting requirements; consolidate or simplify the rulemaking's reporting requirements; establish performance requirements to replace design or operational standards; or exempt them from some or all of the rule requirements. For the reasons stated in item #6 of the preamble, and due to the inherent difficulty in identifying all sources which are small businesses, including the possibility that such status may change from year to year, ADEQ has determined that it is not feasible to apply a separate opacity standard to small businesses.

10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):

In response to comments, ADEQ has made the following changes to the proposed rule:

1. Removed proposed subsection (I) and the reference to it in subsection (B). See comment 6 in item #11 of this NFRM for further explanation. Proposed subsection (I) is shown below stricken.
2. Changed the deadline for submission of a petition for an alternative opacity limit in both attainment and nonattainment areas from April 15, 2004 to May 15, 2004 to account for a one month delay in the rule becoming effective. See discussion in item #6 of this NFRM.
3. Replaced "the" with "any" in the language that was proposed (D)(3), and is now (D)(1)(a). See comment 16 in item #11 of this NFRM.
4. Clarified references to compliance schedules in language that was in proposed subsections (D)(2) and (3), and is now in subsections (E)(3) and (4). See comment 15 in item #11 of this NFRM.

In addition, other language was changed to make the rule more clear, concise and understandable. In particular, former subsections (D) and (F) have been reorganized and combined into (D), and former subsections (E) and (G) have been combined into (E). To show this reorganization, the final rule is set out below without reference to the former rule:

R18-2-702. General Provisions

A. The provisions of this Article shall only apply to a source that is all of the following:

1. An existing source as defined in R18-2-101;
2. A point source. For purposes of this Section "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
3. A stationary source, as defined in R18-2-101.

B. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:

1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Director and the Administrator as provided in subsection (D) and (E), after February 2, 2004;
2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).

C. If the presence of uncombined water is the only reason for an exceedance of any visible emissions requirement in this Article, the exceedance shall not constitute a violation of the applicable opacity limit.

D. A person owning or operating a source may petition the Director for an alternative applicable opacity limit. The petition shall be submitted to ADEQ by May 15, 2004.

1. The petition shall contain:
   a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
      i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
      ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
      iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
   b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
   c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
   a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
   b. Evidence that the source conducted the stack tests according to R18-2-312, and that they were witnessed by the Director or the Director's agent or representative.
   c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
   a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
   b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.

E. If the Director receives a petition under subsection (D) the Director shall approve or deny the petition as provided below by October 15, 2004:

1. If the petition is approved under subsection (D)(1) or (D)(2), the Director shall include an alternative opacity limit in a proposed significant permit revision for the source under R18-2-320 and R18-2-330. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alterna-

tive opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.

2. If the petition is approved under subsection (D)(3), the Director shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.

3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under R18-2-309(5)(c)(iii) by April 23, 2006.

4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under R18-2-309(5)(c).

F. The Director, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:

1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.

2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

Proposed subsection (I) was removed from the final rule and is shown below:

~~**I.** For excepted sources, opacity may exceed the applicable limits established in subsection (B) for up to one hour during the start up of switching to or back from an emergency fuel; however, opacity shall not exceed 40% for any six (6) minute averaging period in this one hour period, provided the Director finds that the owner or operator has, to the extent practicable, maintained and operated the source of emissions in a manner consistent with good air pollution control practices for minimizing emissions. The one hour period shall begin at the moment of startup of fuel switching. For the purposes of this subsection:~~

~~1. Excepted sources shall include only the following for which construction commenced prior to May 10, 1996:~~

~~a. Electric utility steam generating units or cogeneration steam generating units used to generate electric power that has a heat input of equal to or greater than 100 million (MM) Btu/hour (29 megawatts); and~~

~~b. Electric utility stationary gas turbines with a heat input at peak load equal to or greater than 10 MM Btu/hour (2.9 MW) based upon the lower heating value of the fuel.~~

~~2. "Fuel switching" means the act of changing from one type of fuel to a different type of fuel.~~

~~3. "Emergency fuel" means fuel fired only during circumstances such as natural gas emergency, natural gas curtailment, or breakdown of delivery system such as an unavoidable interruption of supply that makes it impossible to fire natural gas in the unit. Fuel is not considered emergency fuel if it is used to avoid either peak demand charges or high gas prices during on-peak price periods or due to a voluntary reduction in natural gas usage by the power company.~~

~~4. "Natural gas curtailment" means an interruption in natural gas service, such that the daily fuel needs of a combustion unit cannot be met with natural gas available due to one of the following reasons, beyond the control of the owner or operator:~~

~~a. An unforeseeable failure or malfunction, not resulting from an intentional act or omission that the governing state, federal or local agency finds to be due to an act of gross negligence on the part of the owner or operator;~~

~~b. A natural disaster;~~

~~c. The natural gas is curtailed pursuant to governing state, federal or local agency rules or orders; or~~

~~d. The serving natural gas supplier provides notice to the owner or operator, that, with forecasted natural gas supplies and demands, natural gas service is expected to be curtailed pursuant to governing state, federal or local agency rules or orders.~~

~~5. Determination of whether good air control practices are being used shall be based on information provided to the Director upon request, which may include, but is not limited to, the following:~~

~~a. Monitoring results;~~

~~b. Opacity observations;~~

~~c. Review of operating and maintenance procedures; and~~

~~d. Inspection of the source.~~

11. A summary of the comments made regarding the rule and the agency response to them:

Comment #1: One commenter opposes the 20% opacity limit; the majority of ginned cotton already meets the lower opacity level, but the commenter is concerned with the 15% of ground harvested cotton that is ginned annually. They state that individual ginners, and the cotton industry generally, will be subjected to financial hardship as a result of the lower standard, and new testing and reporting requirements.

Response #1: Subsection (B) of the proposed R18-2-702 limits applicability of the rule to those sources not subject to an opacity standard otherwise provided in Chapter 2 of the Arizona Administrative Code. Cotton gins are subject to an opacity limit of 40% under R18-2-729, "Standards of Performance for Cotton Gins". Therefore, they are not covered by the requirements of R18-2-702.

Comment #2: Several commenters assert that the imposition of the 20% opacity limit in attainment areas is not required by the Clean Air Act, Arizona law, or the EPA.

Response #2: While 20% opacity in attainment areas is not specifically required, it is authorized. ADEQ has made a policy determination that the 20% opacity limit in attainment areas is necessary to prevent the air quality in those areas from deteriorating and, eventually, losing their attainment designation. Designating an area as attainment for a particular pollutant does not relieve ADEQ of its continuing responsibility to protect air quality in those areas. A.R.S. § 49-425(A) provides "The director shall adopt such rules as he determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify, and amend reasonable standards for the quality of, and emissions into, the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions, and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act." (Emphasis added)

Comment #3: Two commenters state that accepting ADEQ's justifications for applying the same opacity standard to both attainment and nonattainment areas "will blur the important distinction between attainment and nonattainment areas." "[T]he very definition of attainment and unclassified areas suggests that a reduction in an emission standard is unnecessary because the area is already in compliance with National Ambient Air Quality Standards (NAAQS), both health and welfare based."

Response #3: Under § 110(a)(1) of the CAA, states are required to submit "a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State." As such, ADEQ is responsible for the protection of air quality in attainment areas, as well as the improvement of air quality in nonattainment areas. A designation as attainment many years ago by definition does not mean further safeguards may not be necessary to protect public health today. As such, ADEQ may determine that an emission standard or control measure is required in attainment areas even though that standard or control measure is also used in nonattainment areas. Under A.R.S. § 41-1024(D) an agency may use its own experience, technical competence, specialized knowledge and judgement in developing rules. See also A.R.S. § 49-425(A), quoted above.

Comment #4: Three commenters claim that ADEQ's concern over transport of pollutants from attainment to nonattainment areas is unnecessary because "designation of a nonattainment area already includes consideration of pollutant transport."

Response #4: ADEQ recognizes that under CAA § 107(d)(1)(A), at the time of nonattainment area designation, states submitted to EPA "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the...standard for the pollutant." Thus, the current boundaries are in a sense, a snapshot in time, drawn in approximately 1988. Considerable growth has occurred in Arizona since that time. In setting 20% opacity in all areas, ADEQ is taking this growth in population and in both portable and stationary sources into account. Moreover, to fulfill its obligation to make certain that air quality in attainment areas is protected, and that these areas retain their designation as attainment, ADEQ has determined that a statewide 20% opacity limit is necessary as a matter of policy, particularly when dealing with the issue of portable sources. A 20% opacity standard in both nonattainment and attainment areas would discourage relocation of portable sources that can damage attainment status and damage air quality. It is far easier, more efficient and more effective to regulate an area than it is to regulate particular sources, especially when those sources are difficult to locate as a result of their temporary nature.

Comment #5: Three commenters assert that "a reduced opacity standard in attainment areas imposes costs without justification" and that, therefore, the proposed rule "does not comply with the Administrative Procedures Act."

Response #5: ADEQ stated in its preliminary economic impact statement that "very few sources" would be impacted by this rulemaking. ADEQ specifically requested in the preliminary EIS that potentially impacted sources submit cost information. No source responded to the preliminary EIS with cost information. Even the principal commenters on this issue submitted no information to ADEQ about any increased costs. Therefore, ADEQ finds there is no basis for changing its original cost analysis. In addition, ADEQ has added information to the EIS related to the benefits of reducing emissions of particulate matter.

Comment #6: One commenter refers to subsection (I) of the proposed R18-2-702, which provides for an exemption to the 20% opacity standard in cases of emergency fuel-switching. Commenter worked closely with Maricopa County and EPA to develop this exemption in county rules, and requested its inclusion in the statewide rule. However, commenter "does not believe that references to emergency fuel are appropriate in this rule, and...request(s) that the rule be modified to provide the exemption generally for fuel switching. ADEQ does not provide for burning oil, and therefore the references to emergency fuel are inappropriate."

Response #6: Because EPA has not yet acted on the Maricopa County rule, and because there is a lack of consensus on this issue that may jeopardize approval of R18-2-702, ADEQ has decided to remove proposed subsection (I) from the final rule. The issue needs further study and may be reconsidered at a later date.

Comment #7: A commenter stated that "[t]he proposed revision does not adequately address the disapproval by the Environmental Protection Agency as discussed in 65 FR 79037 and 67 FR 59456. The proposed rule contains the same applicability deficiency as addressed in 67 FR 59456.

Response #7: ADEQ has researched source categories potentially subject to R18-2-702. All PM10 sources in Arizona are subject to either R18-2-702, NSPS or source-specific opacity standards. ADEQ thinks, as a matter of policy, that it is most appropriate at this time to address only the general standard covered by the proposed rule, and required for EPA approval of the SIP, rather than revise source-specific opacity standards. There is a two year window for compliance with the 20% standard within the rule; other rulemakings for source-specific opacity standards may be considered for the future in that time.

Comment #8: Three commenters dispute ADEQ's claim that it will be "difficult and inefficient for both sources and regulators to keep track of the correct standards if the state were divided up further into an interlocking patchwork of contiguous 20% and 40% areas." 9 Ariz. Admin Reg., at 3490. Arizona is already divided up into an interlocking patchwork of contiguous areas known as attainment and nonattainment areas. Having a reduced opacity standard for nonattainment areas and keeping the 40% standard for attainment areas would not further divide the state; it would simply use existing boundaries."

Response #8: Bifurcation of R18-2-702 would create unnecessary administrative barriers and complications. ADEQ has determined that it would be more difficult and less efficient for both sources and regulators to keep track of the correct opacity standard if the twelve-county territory covered by R18-2-702, previously all subject to 40%, was divided up into a patchwork of 20% and 40% areas. Maricopa County has already made the same determination: although the county contains a PM10 nonattainment area, county regulators have made 20% the general opacity limit throughout the entire county. Furthermore, ADEQ has determined, as a matter of policy, that a statewide opacity limit of 20% will both help preserve the status of those areas already designated as attainment and help nonattainment areas achieve attainment. By regulating all areas equally, rather than regulating specific sources, ADEQ can avoid the problem of trying to track hard-to-find portable sources; sources which might otherwise be encouraged to locate in attainment areas in order to avoid the stricter limits applied in nonattainment areas.

Comment #9: Two commenters declared their support for the reduction "of the opacity standard for nonattainment areas consistent with federal guidelines. . . . In the proposed disapproval notice, EPA refers to 'PM-10 Guideline Document' (EPA-425/ro93-008) as support for its position that Rule 702 does not meet RACM/RACT requirements. 65 Fed. Reg. at 79038. The 'PM-10 Guideline Document' does not support EPA's nationwide approach, but outlines a RACM/RACT determination procedure using an area-by-area approach."

Response #9: EPA has asserted that a 20% opacity standard is reasonably available across the country (65 Fed. Reg. 79037, 79038 (December 18, 2000)) and is appropriate in Arizona. ADEQ agrees that a 20% standard is RACM/RACT for nonattainment areas in Arizona and that such a standard is consistent with applicable federal guidelines.

Comment #10: Two commenters maintain that "EPA was mistaken in its disapproval of the Arizona AOS procedure" in nonattainment areas for lack of EPA review. They assert that "EPA approval of an AOS is not required if the procedure that a state follows includes criteria that would lead to the same emission limit that EPA would establish. 67 Fed. Reg. 71515, 71517 (December 2, 2002)." They cite the case of an Ohio rule (R3745-17-07) where EPA Region 5 has proposed approval of an AOS process without provision for EPA review, where that process was substantially similar to the EPA AOS process at 40 CFR 60.11(e). Commenter maintains that Arizona's AOS procedure is likewise similar to EPA process.

Response #10: Approval of the cited Ohio rule has not been made final by EPA Region 5. That rule apparently includes application of detailed procedures in the Ohio EPA, Division of Air Pollution Control documents entitled, Engineering Guide #13, and Engineering Guide #15, to determine the actual numerical value of the visible emission limit. R18-2-702 contains no such detailed procedures nor does it incorporate any by reference. Finally, Arizona must seek approval from Region 9, not Region 5.

Comment #11: Two commenters claim that Arizona's procedure for obtaining an alternative opacity standard in attainment areas contains an unjustifiable sunset provision "that is inconsistent with its overall regulatory scheme." Specifically, Arizona incorporated by reference the federal NSPS scheme for alternative opacity standards at 40 CFR 60.11(e) which contains no such sunset provision.

Response #11: ADEQ has little control over individual EPA regulations, and it is Arizona's policy to incorporate NSPS regulations as a whole, including 40 CFR 60.11(e), to receive delegation. In its own rules, however, and with

its limited resources, ADEQ has determined that it is better for public health and welfare to limit time during which an alternative opacity standard might be available. ADEQ believes that existing sources, which are those subject to R18-2-702, should know their opacity limit and be able to comply with it in a timely manner, while new, non-NSPS sources can construct their facilities in such a way that they comply, at the outset of operations, with the proposed 20% opacity standard. ADEQ considered, and rejected as being too onerous, the other alternative of requiring 20% opacity for all areas upon the effective date of the rule. The sunset provision is the best way of requiring sources to either make these timely adjustments to their operations or initiate the appropriate alternative procedures, such as applying for an alternative opacity standard or a compliance schedule, without requiring immediate compliance with the 20% standard.

Comment #12: Two commenters assert that ADEQ has imposed a ceiling of 40% on alternative opacity limits in attainment areas while no such ceiling exists in nonattainment areas.

Response #12: 40% is the currently approved SIP opacity limit for all areas of the state covered by R18-2-702. ADEQ believes that all sources are capable of meeting 40%. Prior to this final rule, no source received, and only one petitioned for, an alternative opacity standard greater than 40%.

Comment #13: One commenter objected to the establishment of an alternative opacity standard to sources such as coal-fired generating plants at only set times. Specifically, under subsection (D), an alternative opacity standard would be applied to a source only during particular events such as load shifting. At other times, the source would be subject to the normal opacity standard of 20%. Commenter maintains "that it would be extremely difficult, administratively and practically, for a source to be subject to two separate opacity standards."

Response #13: ADEQ recognizes that there will be events where it is impossible for certain sources such as coal-fired generating facilities to operate at the lower opacity standard. Application of the alternative standard is appropriate during those periods. At other times, if the source exceeds the general opacity standard, the appropriate manner of addressing the exceedance is to submit an excess emissions report. It would be counterproductive for ADEQ to allow an alternative standard for all operating hours because of the perceived difficulties in defining those hours where it would be justified. ADEQ remains committed to working with any source that believes it requires an alternative opacity standard.

Comment #14: A commenter states that "retrofitting air pollution control equipment on large existing sources takes a minimum of three years to complete." They cannot comply with the 20% opacity standard by the April 2006 deadline, and "propose that ADEQ establish a second compliance deadline of April 23, 2007 for large sources."

Response #14: ADEQ recognizes that some sources may have difficulty complying with the proposed 20% standard by the 2006 deadline. However, ADEQ believes that the appropriate course of action for such sources is incorporation of a compliance schedule under R18-2-702(E) and R18-2-309.

Comment #15: One commenter believed "under the proposed rule language, sources may not seek a compliance schedule unless they first seek an alternative opacity limit." They conclude that if they are not granted an alternative opacity limit they will have to seek a consent order in early 2004 to allow them time to install the control equipment necessary to comply with the 20% standard.

Response #15: Sources may <u>already</u> apply for a compliance schedule under R18-2-309. R18-2-702 does nothing to change that fact. ADEQ has added language to the proposed rule, in subsection (E), clarifying this point.

Comment #16: Two commenters are "concerned with an ambiguity that exists in the new AOS procedures" of R18-2-702, subsection (D). Specifically, proposed (D)(3) "requires 'evidence that the affected facility and the associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.'" Similarly, (D)(4) "'requires documentation that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.'" Commenters ask if associated air pollution control equipment means that if a facility has air pollution control equipment then documentation is required for both the facility and the air pollution control equipment. If, however, a facility has no air pollution control equipment, documentation is required only for the facility.

Response #16: ADEQ has inserted the word "any" into the language that was proposed in subsections (D)(3) and (D)(4), making them read, "documentation that the affected facility and *any* associated air pollution control equipment..." (emphasis added). ADEQ believes this will clear up any potential ambiguity regarding this issue.

Comment #17: One commenter is concerned that they will not be able to sufficiently upgrade certain aspects of their coal handling operations to comply with the proposed 20% opacity standard. They state that, if they are unable to find a solution to this problem, they will petition the state to retain a 40% opacity limitation in those areas.

Response #17: ADEQ believes that a petition for an alternative opacity standard, or an application for a compliance schedule may be the appropriate course of action for this commenter.

Comment #18: One commenter states that there appears to have been published notice only of the Proposed Rulemaking and not of the SIP revision, and that there was no opportunity for public comment.

Response #18: Notice of the SIP revision, along with notice of the Proposed Rulemaking, was published in the August 8, 2003 edition of *The Arizona Republic*, a newspaper of general circulation throughout the state, pursuant to

40 CFR 51.102. Copies of the SIP revision were made available for public review on August 8, 2003 at the ADEQ library, First Floor 1110 W. Washington St., Phoenix, AZ, and are on the ADEQ website at http://www.adeq.state.az.us/environ/air/plan/sip.html#correct.

Comment #19: One commenter states that if the alternative opacity petition process for nonattainment areas is subject to EPA review, and the entire rule is being submitted for EPA approval as a SIP revision in order to be federally enforceable, then the corresponding alternative opacity process for attainment areas sought to be likewise subject to EPA review. Without EPA review, they assert, the alternative opacity process for attainment areas will not be adequately federally enforceable. Commenter believes that if ADEQ does not wish to submit attainment area alternative opacity standards for EPA review, then two separate rules should be written for attainment and nonattainment areas, with only the nonattainment rule being submitted as a SIP revision.

Response #19: ADEQ believes that it is unnecessary to sever the rule in order to make both attainment and nonattainment portions of the rule adequately enforceable. The rule ensures that the applicable current SIP is protected by limiting attainment area alternative opacity standards to 40%; an alternative opacity standard greater than 40% could be considered a relaxation of the SIP. Some attainment area rules must also be submitted to EPA as SIP revisions, whether they include provisions for EPA review, or not.

Comment #20: Two commenters assert that the definition of stationary sources makes clear that the proposed rule does not apply to non-stationary sources, i.e. mobile sources, nonroad engines, and portable sources.

Response #20: ADEQ believes that commenter's statement regarding the relationship of the definitions of stationary and portable sources is incorrect, and that R18-2-702 does apply to portable sources.

According to R18-2-101(88), "portable source" means any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49-426 which emits or may emit any air pollutant and is capable of being operated at more than one location. R18-2-101(111) states that "stationary source" means any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49-426(A) which emits or may emit any air pollutant. "Building, structure or facility" means all of the pollutant-emitting activities belonging to the same industrial grouping, located on one or more contiguous or adjacent properties, and under common control of the same person or persons. Comparing the two definitions, the definition of portable source is the same as the first line of the definition of stationary source, except that stationary sources are subject only to A.R.S. § 49-426(A), whereas portable sources are subject to the entire section of A.R.S. § 49-426. Thus, portable source means any stationary source that is capable of being operated in more than one location, as well as any source subject to A.R.S. § 49-426; contrary to commenter's assertion, the definition of stationary source is not exclusive of, but inclusive of, the definition of portable sources. Therefore, R18-2-702 is applicable to portable sources that are regulated by rules under Article 7 that do not specify an opacity standard.

Comment #21: One commenter at the public hearing asked if the rule had an exclusion for sources that were specifically listed in Article 6 (Emissions from Existing and New Nonpoint Sources.) He also asked if crushers are specifically covered under Article 6.

Response #21: R18-2-702(A) limits application of the rule to existing, stationary point sources. Subsection (B) exempts from the rule those sources which are subject to an opacity standard provided elsewhere in Chapter 2 of the Arizona Administrative Code. Crushers are not specifically listed in Article 6, which regulates only nonpoint sources. As crushers have an identifiable emission plume, they should be considered a point source, and would therefore be subject to the General Opacity Standard of R18-2-702.

During the workshops on this rule, specific discussions took place regarding the relationship of "point" and "nonpoint" sources to fugitive emissions. It was pointed out during those discussions that point sources can have fugitive emissions, and that nonpoint sources (lacking an identifiable plume or emissions point) always have fugitive emissions.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rule:

Not applicable

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

Section
R18-2-702. General Provisions

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

R18-2-702. General Provisions

A. The provisions of this Article shall only apply to ~~existing sources~~ a source that is all of the following:
1. An existing source, as defined in R18-2-101;
2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
3. A stationary source, as defined in R18-2-101.

B. Except as otherwise provided in this ~~Article~~ Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:
~~1. Shall not be greater than 40% and~~
1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Director and the Administrator as provided in subsection (D) and (E), after February 2, 2004;
~~2. Shall be determined by reference Method 9 in 40 CFR 60, Appendix A~~.
2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).

C. ~~Where~~ If the presence of uncombined water is the only reason for ~~the~~ an exceedance of any visible emissions requirement~~s~~ in this Article, ~~such~~ the exceedance shall not constitute a violation of the applicable opacity limit.

D. A person owning or operating ~~an air pollution~~ a source may ~~ask~~ petition the Director for ~~a determination on meeting the requirements of the~~ an alternative applicable opacity ~~standard~~ limit. The petition shall be submitted to ADEQ by May 15, 2004.
~~1. The owner or operator shall submit the written reports of the results of the performance tests, the opacity observation results, and observer certification.~~
1. The petition shall contain:
   a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
      i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
      ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
      iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
   b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
   c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
~~2. If the Director finds that the facility is in compliance with all applicable standards for the performance test and still fails to meet the applicable opacity standard, he shall notify the owner or operator of the finding.~~
2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
   a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.

b. Evidence that the source conducted the stack tests according to R18-2-312, and that they were witnessed by the Director or the Director's agent or representative.
c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.

~~3. The owner or operator may petition the Director within 10 days of receipt of notification, asking the Director to make an appropriate adjustment to the opacity standard for the facility.~~

3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.

~~4. The Director shall grant the petition after public notice and opportunity for public hearing takes place and upon a demonstration by the owner or operator that:~~
~~a. The affected facility and the associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance test.~~
~~b. The performance tests were performed under the conditions established by the Director.~~
~~c. The affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity requirement.~~

~~5. The Director shall establish an opacity standard for the affected facility based on the determination made in subsection (D)(4). The opacity standard shall be set at a level indicated by the performance and opacity tests, providing that the source will be able to meet the mass or concentration standard and the opacity standard at all times. Such opacity standard shall be incorporated as a condition of the permit for the affected facility.~~

~~6. The Director shall publish the opacity standard once in 1 or more newspapers of general circulation in the county or counties concerned.~~

~~**E.** The process weight utilized in this Article shall be determined as follows:~~
~~1. For continuous or long run, steady state process sources, the process weight shall be the total process weight for the entire period of continuous operation of for a typical portion thereof, divided by the number of hours of such period or portion thereof.~~
~~2. For cyclical or batch process sources, the process weight rate shall be the total process weight for a period which covers a complete operation or in integral number of cycles, divided by the hours of actual process operation during such period.~~

E. If the Director receives a petition under subsection (D) the Director shall approve or deny the petition as provided below by October 15, 2004:
1. If the petition is approved under subsection (D)(1) or (D)(2), the Director shall include an alternative opacity limit in a proposed significant permit revision for the source under R18-2-320 and R18-2-330. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
2. If the petition is approved under subsection (D)(3), the Director shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under R18-2-309(5)(c)(iii) by April 23, 2006.
4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under R18-2-309(5)(c).

F. The Director, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:
1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

Attachment 7

Final, Revised General Opacity Rule,
A.A.C. R18-2-702

(Effective February 3, 2004)

R18-2-702. General Provisions

A. The provisions of this Article shall only apply to a source that is all of the following:
1. An existing source, as defined in R18-2-101;
2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
3. A stationary source, as defined in R18-2-101.

B. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:
1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Director and the Administrator as provided in subsections (D) and (E), after February 2, 2004;
2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).

C. If the presence of uncombined water is the only reason for an exceedance of any visible emissions requirement in this Article, the exceedance shall not constitute a violation of the applicable opacity limit.

D. A person owning or operating a source may petition the Director for an alternative applicable opacity limit. The petition shall be submitted to ADEQ by May 15, 2004.
1. The petition shall contain:
   a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
      i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
      ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
      iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
   b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
   c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
   a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
   b. Evidence that the source conducted the stack tests according to R18-2-312, and that they were witnessed by the Director or the Director's agent or representative.
   c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
   a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
   b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.

E. If the Director receives a petition under subsection (D) the Director shall approve or deny the petition as provided below by October 15, 2004:
1. If the petition is approved under subsection (D)(1) or (D)(2), the Director shall include an alternative opacity limit in a proposed significant permit revision for the source under R18-2-320 and R18-2-330. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
2. If the petition is approved under subsection (D)(3), the Director shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under R18-2-309(5)(c)(iii) by April 23, 2006.
4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under R18-2-309(5)(c).

F. The Director, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:
1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.

2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

Historical Note

Former Section R18-2-702 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-702 renumbered from R18-2-502 and amended effective November 15, 1993 (Supp. 93-4). Amended by exempt rulemaking at 9 A.A.R. 5550, effective February 3, 2004 (Supp. 03-4).

R18-2-703. Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment

A. This Section applies to the following:
1. Installations in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under R18-2-704.
2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to 73 megawatts capacity.

B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.

C. No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:
1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:
$E = 1.02Q^{0.769}$
where:
E = the maximum allowable particulate emissions rate in pounds-mass per hour.
Q = the heat input in million Btu per hour.
2. For equipment having a heat input rate greater than 4200 million Btu/hr, the maximum allowable emissions shall be determined by the following equation:
$E = 17.0Q^{0.432}$
where "E" and "Q" have the same meaning as in subsection (C)(1).

D. For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual values shall be calculated from the applicable equations and rounded off to two decimal places.

E. When low sulfur oil is fired:
1. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
2. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide maximum three-hour average per million Btu (340 nanograms per joule) heat input.

F. When high sulfur oil is fired, all existing steam-power generating and general fuel-burning installations which are subject to the provisions of this Section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million Btu (946 nanograms per joule) heat input.

G. When solid fuel is fired:
1. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds of sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
2. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds, maximum three-hour average, per million Btu (340 nanograms per joule) heat input.

H. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee, unless the applicant demonstrates to the satisfaction of the Director that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
3. When the conditions justifying the use of high sulfur oil no longer exists, the permit shall be modified accordingly.
4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.

I. Existing steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit nitrogen oxides in excess of the following amounts:
1. 0.20 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when gaseous fossil fuel is fired.
2. 0.30 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when liquid fossil fuel is fired.
3. 0.70 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when solid fossil fuel is fired.

J. Emission and fuel monitoring systems, where deemed necessary by the Director for sources subject to the provisions of this Section shall, conform to the requirements of R18-2-313.

K. The applicable reference methods given in the Appendices to 40 CFR 60 shall be used to determine compliance with the standards as prescribed in subsections (C) through (G) and (I). All tests shall be run at the heat input calculated under subsection (B).

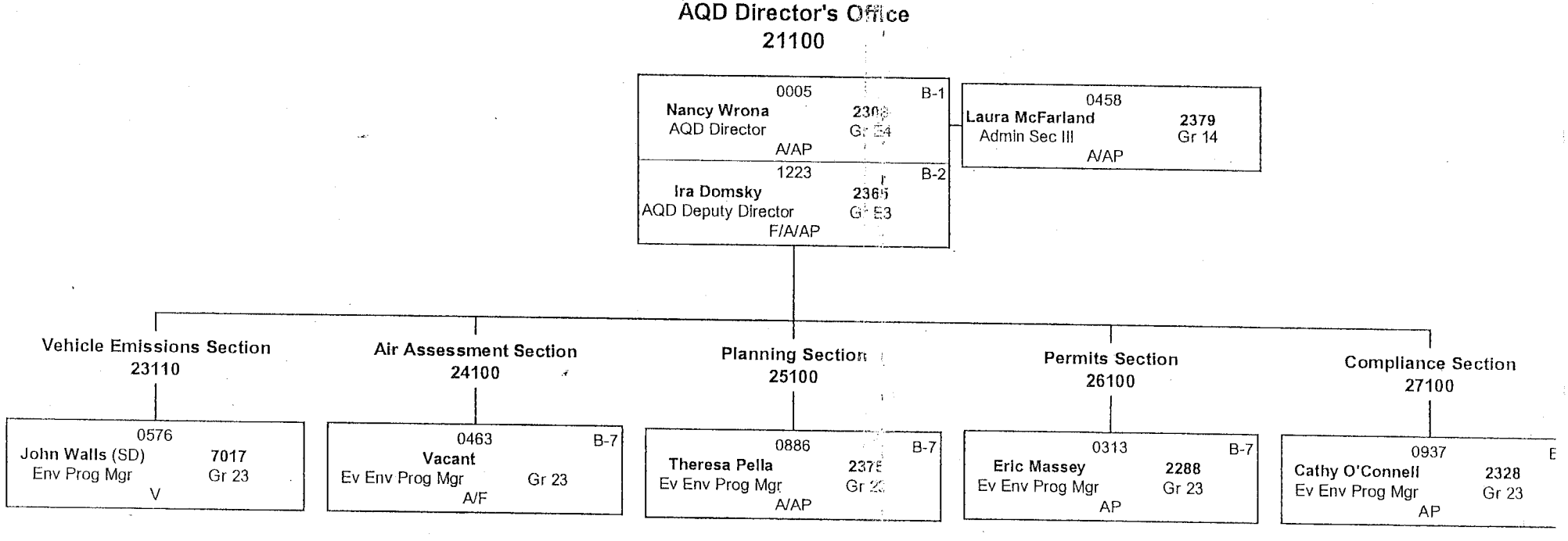
Historical Note

Former Section R18-2-703 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-703 renumbered from R18-2-503 and amended effective November

Attachment 8

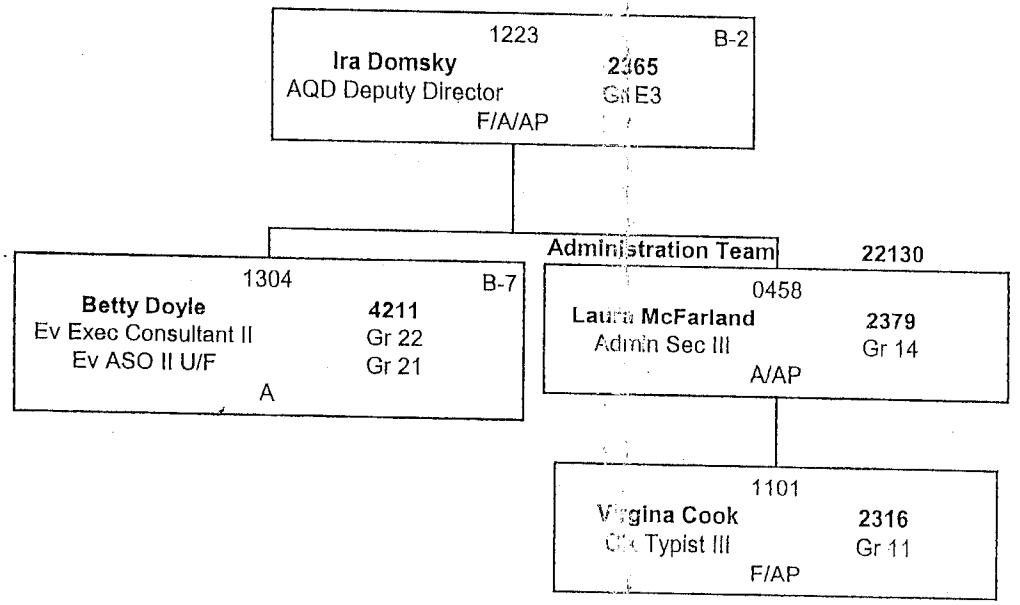
Air Quality Division Organizational Charts

Arizona Department of Environmental Quality
Air Quality Division



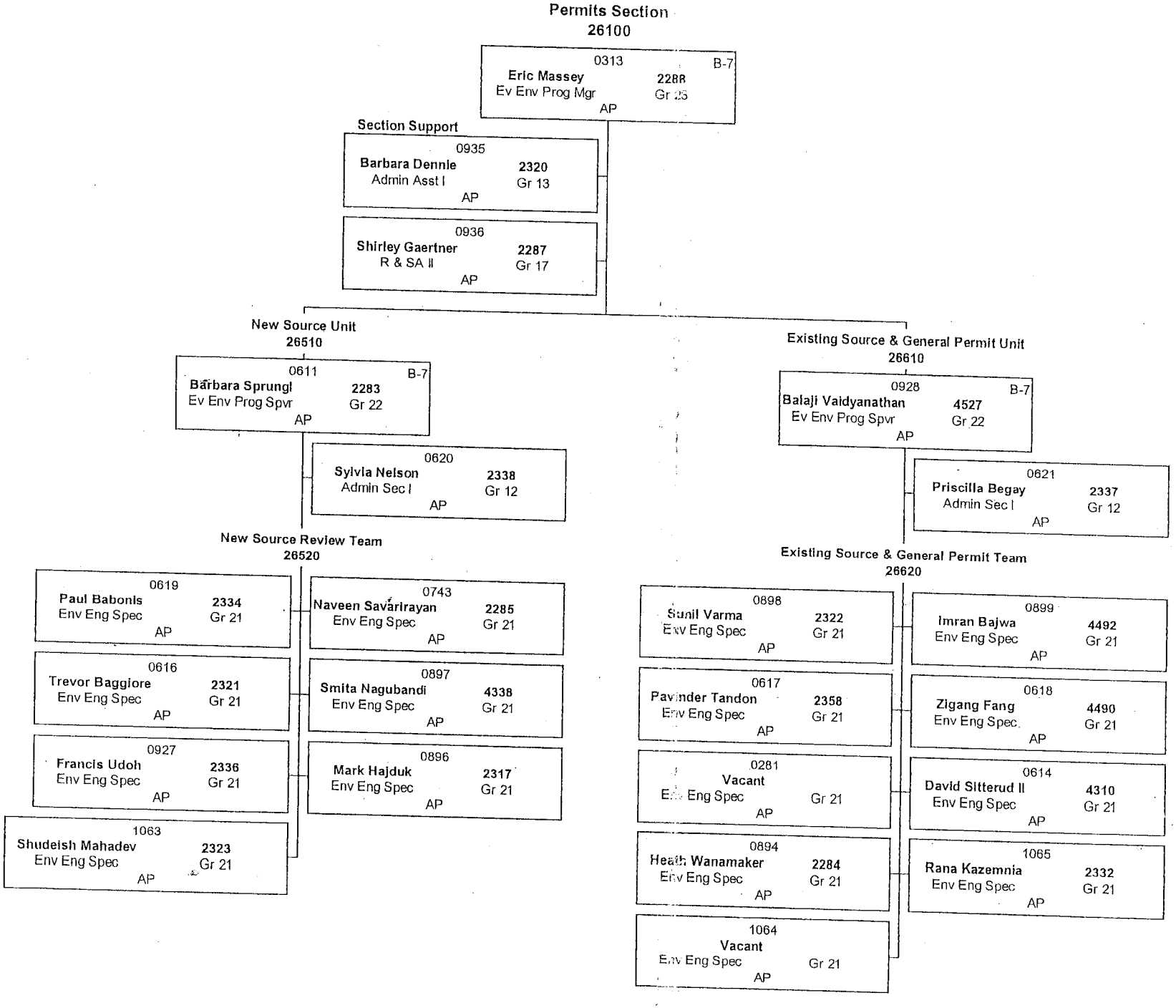
Arizona Department of Environmental Quality
Air Quality Division

AQD Deputy Director
22110



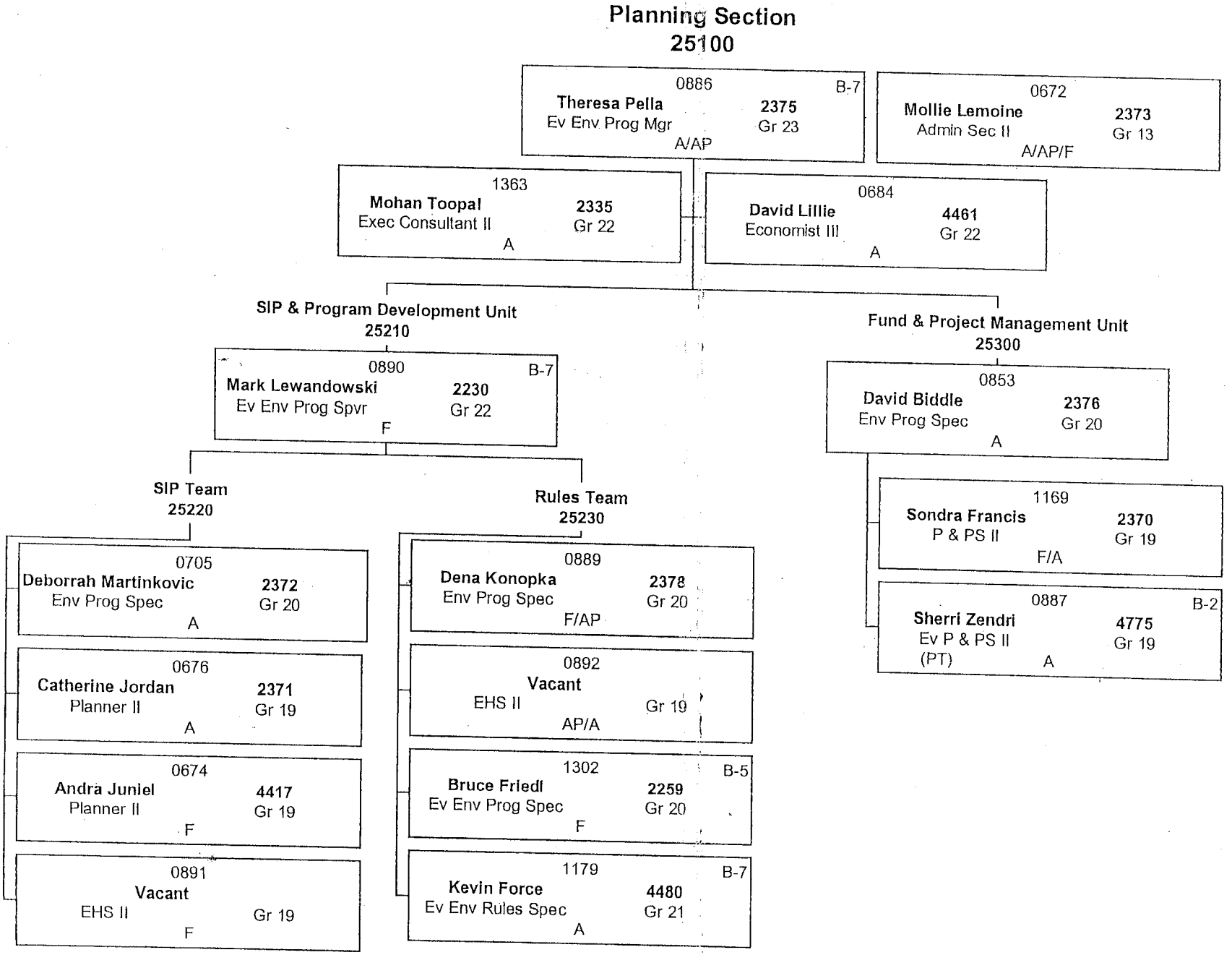
Arizona Department of Environmental Quality

Air Quality Division



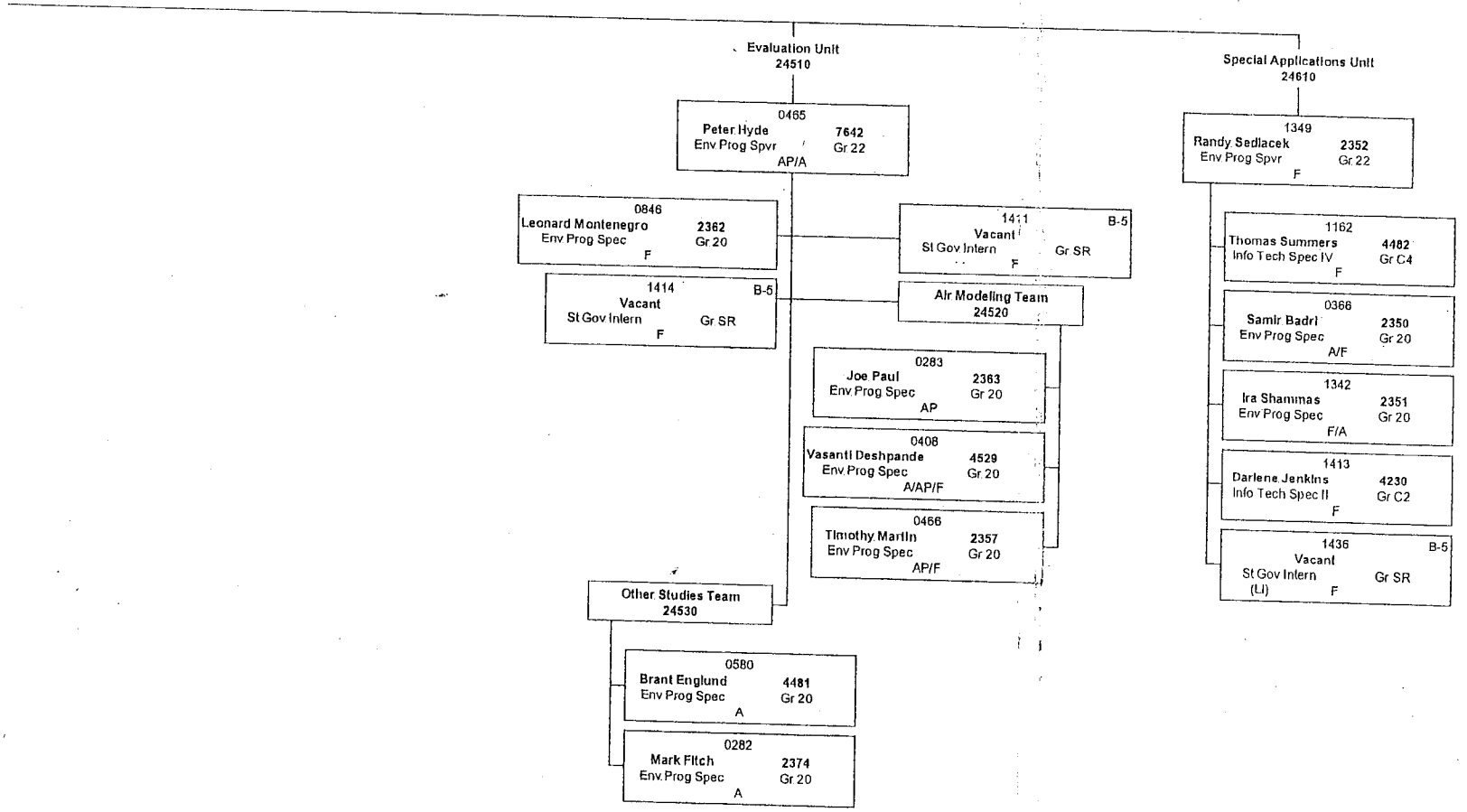
Arizona Department of Environmental Quality

Air Quality Division

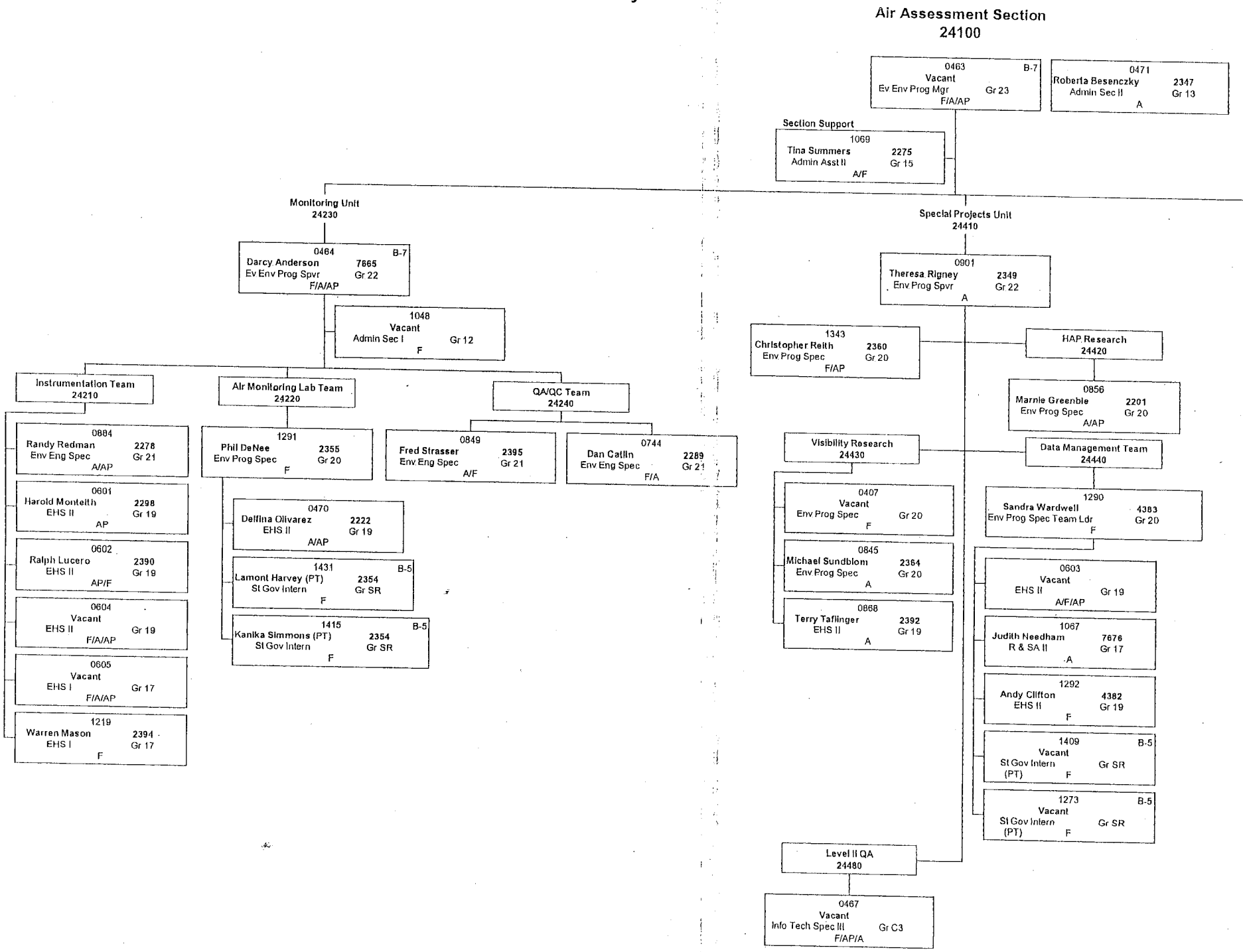


JULY 2003

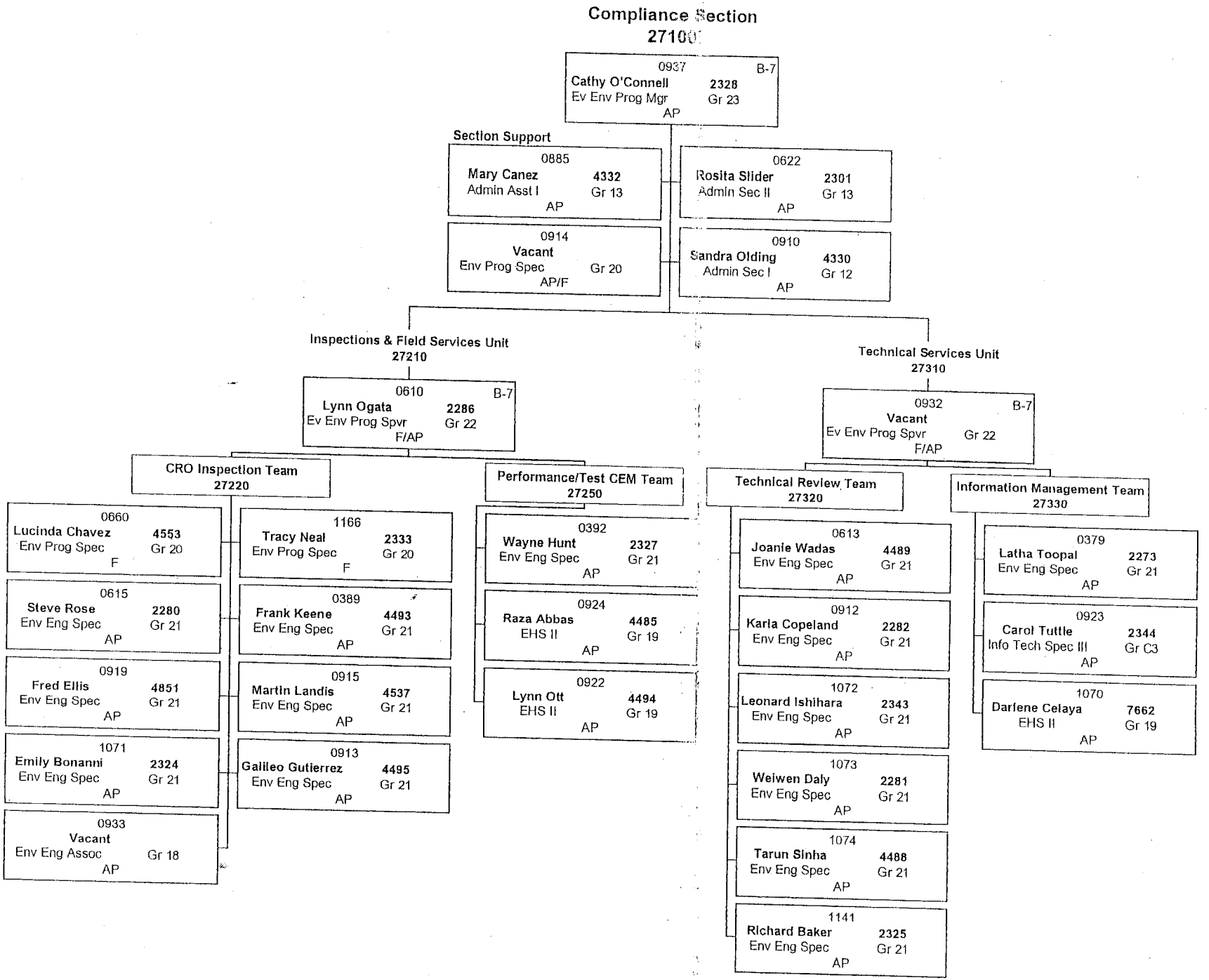
Arizona Department of Environmental Quality
Air Quality Division
Air Assessment Section (continued)



Arizona Department of Environmental Quality
Air Quality Division



Arizona Department of Environmental Quality
Air Quality Division



JULY 2003

Arizona Department of Environmental Quality
Air Quality Division

Vehicle Emission Section
23110

0576
John Walls (SD) 7017
Env Prog Mgr Gr 23
V

VEI Business Team 23120

0573
Cecilia Hartley 7001
Admin Asst II Gr 15
V

0598
Nicole Dockery 7028
Rev Ctl Info Tech Gr 10
V

VEI Admin Team 23130

0593
Dennis Betz 7004
Admin Sec II Gr 13
V

0594
Marcus Brown 7010
Clk Typist III Gr 11
V

Phoenix Operations Unit
23200

0577
Thomas Cisco 7013
Env Prog Spvr Gr 22
V

23210

0571
Tony Godoy 7005
EHS II Gr 19
V

0590
Michael Reuter 7000
EIT II Gr 16
V

0575
Mike Mutters 7000
EIT II Gr 16
V

0964
Vacant
EIT II Gr 16
V

0606
Michael Ybarra 7000
EIT II Gr 16
V

0963
Louis Grisham 7000
EIT II Gr 16
V

23220

0169
Rex Martin 7023
EHS II Gr 19
V

0957
Vacant
EIT II Gr 16
V

23240

0959
Jim Gass 7005
EHS II Gr 19
V

0962
Hamid Eltezam 7000
EIT II Gr 16
V

0961
Donald Crane 7000
EIT II Gr 16
V

Tucson Operations Unit (SRO)
23310

0578
Florentino Angulano (520) 628-6036
Env Prog Spvr Gr 22
V (SRO)

0164
Sandra Malings (520) 628-5651
Admin Asst I Gr 13
V (SRO)

0599
Connie Huebner (520) 628-5651
Clk Typist III Gr 11
V (SRO)

23320

0607
Tom Swigart (520) 628-5651
EHS II Gr 19
V (SRO)

0586
Mark Pilgrim (520) 628-5651
EIT II Gr 16
V (SRO)

0986
Vacant
EIT II Gr 16
V (SRO)

0588
Russell Ledbetter (520) 628-5651
EIT II Gr 16
V (SRO)

0591
Vacant
EIT II Gr 16
V (SRO)

Inspections & Compliance Unit
23410

0579 (A)
John Gibbons 7015
Env Prog Spvr Gr 22
V

0579 (B)
Don Bauer (PT) 7012
Env Prog Spec Gr 20
V

0595
Lisca Sanchez 7007
Clk Typist III Gr 11
V

1095
Vacant
Clk Typist III Gr 11
V

1097
Alex Studham 7008
P & PS I Gr 18
V

0980
Richard Day 7018
P & PS I Gr 18
V

23420

0589
Adrion Osborne 7011
EHS II Gr 19
V

0587
Dave Skowronek 7038
EIT II Gr 16
V

0592
Angelina Tautimer 7040
EIT II Gr 16
V

0584
Tonna Smith 7041
EIT II Gr 16
V

0185
Tom McDaniel 7009
EIT II Gr 16
V

Emissions Research Lab. Unit
23500

0461
Frank Cox 7024
Env Prog Spvr Gr 22
V

Remote Sensing Unit
23600

0173
Vacant
Env Prog Spvr Gr 22
V

1006
Alicia Miner 7039
Clk Typist II Gr 9
V

1005
Hslu-Feng Ling 7033
R & SA II Gr 17
V

Attachment 9

Public Hearing Documentation

PUBLIC NOTICE

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
NOTICE OF PUBLIC HEARING
ON PROPOSED REVISIONS TO THE ARIZONA STATE IMPLEMENTATION PLAN, AND ON PROPOSED REVISIONS TO ARIZONA ADMINISTRATIVE CODE (A.A.C.) R18-2-702, THE GENERAL VISIBLE EMISSIONS STANDARD FOR EXISTING STATIONARY SOURCES

The Arizona Department of Environmental Quality (ADEQ) will hold a public hearing to receive comments on proposed revisions to Arizona Administrative Code R18-2-702, "General Provisions," applicable to existing, stationary sources of air pollution, and proposed revisions to the Arizona State Implementation Plan (SIP) to incorporate the proposed rulemaking changes that will address the deficiencies noted in U.S. Environmental Protection Agency's (EPA's) September 23, 2002, disapproval of the SIP revision.

The public hearing on the proposed revisions to A.A.C. R18-2-702, and to the Arizona State Implementation Plan, will be held on Monday, September 8, 2003, at 1:30 p.m., at ADEQ, 1110 West Washington Street, Phoenix, Arizona 85007, in Conference Room 250. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally, and in writing. Written comments must be received at ADEQ by 5:00 p.m. on Friday, September 12, 2003. All written comments should be addressed, faxed, or e-mailed to:

Kevin Force
Air Quality Planning Section
Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, AZ 85007
PHONE: (602) 771-4480; FAX: (602) 771-2366
E-Mail: kf1@ev.state.az.us

Copies of the proposed rule and SIP revisions are available for review beginning Friday, August 8, 2003, at the following location:

Arizona Department of Environmental Quality Library
First Floor
1110 West Washington Street
Phoenix, Arizona 85007
Attn: Lorraine Akey, (602) 771-2217

Copies of the proposed rule revision are also available on the ADEQ website, at: http://www.adeq.state.az.us/about/draftrules.html#gen..

AFFIDAVIT OF PUBLICATION

PUBLIC NOTICE
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY NOTICE OF PUBLIC HEARING ON PROPOSED REVISIONS TO THE ARIZONA STATE IMPLEMENTATION PLAN, AND ON PROPOSED REVISIONS TO ARIZONA ADMINISTRATIVE CODE(A.A.C.) R18-2-702, THE GENERAL VISIBLE EMISSIONS STANDARD FOR EXISTING STATIONARY SOURCES

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03493-August 6, 2003

THE ARIZONA REPUBLIC

STATE OF ARIZONA
COUNTY OF MARICOPA } SS.

Melissa Daams, being first duly sworn, upon oath deposes and says: That she is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

8/6/2003

Melissa Daams

Sworn to before me this
6TH day of
August A.D. 2003

OFFICIAL SEAL
MARILYN GREENWOOD
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires May 23, 2007

Marilyn Greenwood
Notary Public

Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.adeq.state.az.us

Stephen A. Owens
Director

ADEQ PUBLIC HEARING
on
PROPOSED RULE AND ARIZONA STATE IMPLEMENTATION PLAN (SIP) REVISIONS REFLECTING PROPOSED CHANGES TO ARIZONA ADMINISTRATIVE CODE (A.A.C.) TITLE 18, ARTICLE 7 R18-2-702, GENERAL OPACITY PROVISION

MEETING LOCATION AND TIME:
Arizona Department of Environmental Quality

***** Conference Room 250 *****
1110 West Washington Street
Phoenix, Arizona 85007
Monday, September 8, 2003, 1:30 p.m.

AGENDA

1. Welcome and Introductions - Cathy O'Connell, ADEQ Air Quality Compliance Section Manager / Public Hearing Officer
2. Overview of Proposed Rulemaking and SIP Revision - Theresa Pella, Air Quality Planning Section Manager
3. Questions and Answers Concerning the Rulemaking and SIP Revision - Cathy O'Connell
4. Oral Comments on Rulemaking and SIP Revision - Cathy O'Connell
   (To comment, please take a speaker slip from the sign-in table and submit it to the Public Hearing Officer.)
5. Next Steps and Adjournment - Cathy O'Connell

For additional information regarding this meeting, contact Cathy Jordan at ADEQ by phone at (602) 771-2371, or e-mail at cj1@ev.state.az.us. Persons with a disability may request a reasonable accommodation, such as sign language interpreter, by contacting Katie Huebner at ADEQ at (602) 771-4794. Requests should be made as early as possible to allow sufficient time to make the arrangements for the accommodation.

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
Air Quality Division

Please Sign In

SUBJECT AAC R18-2-702, Governor Offset Rule public Hearing DATE 9/8/03

	NAME	ORGANIZATION	PHONE	FAX	E-MAIL
1.	Tom Edge	AZ Cotton Growers	602 389-8021		
2.	Doug Lavarnway	APS	9282881394	9282881454	2529136@aps.com
3.	Wayne Leipold	PD Miami	928-473-7149	928 473-7449	wleipold@phelpsdodge.com
4.	Brennan Townsend	MCESD	602-506-6710	506-6719	bcurry@mail.maricopa.g
5.	Marcia Colquitt	Az Dept. of Ag	6025423484		marcia.colquitt@agric.az.c
6.	JIM McKula	APS	602 510-1831	250-3872	JIM.MCKULA@PINNACLEWEST.COM
7.	Ken Evans	Phelps Dodge Corp.	602-366-8514	602-366-7314	kevans@phelpsdodge.com
8.	Russell Kuhnhenn	ACGA	623 386 4611		

	Name	Org	Ph#	Fax	Email
9.	J. Parkinson	PCAQCD	8666969	8666967	jean.parkinson@co.pinal.az.us
10.	bob [illegible]	Pinal	520 866 6929	-6967	
11.					
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Arizona Department of Environmental Quality
Air Quality Division

Public Hearing Presiding Officer Certification

I, Cathy O'Connell, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on September 8, 2003, in the Arizona Department of Environmental Quality conference room 250, 1110 West Washington Street, Phoenix, Arizona 85007, in accordance with public notice requirements by publication in The Arizona Republic dated August 6, 2003. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

Dated this 14th day of January, 2004.

Cathy O'Connell

Cathy O'Connell

State of Arizona)
) ss.
County of Maricopa)

Subscribed and sworn to before me by Laura McFarland this 14 day of Jan, 2004.

Laura McFarland

Notary Public

Notary Public State of Arizona
Maricopa County
Laura McFarland
Expires April 02, 2004

My commission expires:

April 02, 2004

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF THE PROPOSED REVISIONS TO THE ARIZONA STATE IMPLEMENTATION PLAN, AND ON PROPOSED REVISIONS TO ARIZONA ADMINISTRATIVE CODE R18-2-702, THE GENERAL VISIBLE EMISSIONS STANDARD FOR EXISTING STATIONARY SOURCES.	**PUBLIC HEARING**

At: Phoenix, Arizona

Date: September 8, 2003

Filed: SEP 22 2003

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ARIZONA REPORTING SERVICES, INC.
Court Reporting
Suite Three
2627 North Third Street
Phoenix, Arizona 85004-1103

By: MICHELE E. BALMER, RPR
Certified Court Reporter
Certificate No. 50489

Prepared for:

ADEQ

ORIGINAL

BE IT REMEMBERED that the above-entitled matter came on regularly to be heard before the Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona, commencing at 1:30 p.m. on the 8th day of September, 2003.

BEFORE: CATHY O'CONNELL, Hearing Officer

APPEARANCES:

THERESA PELLA, Air Planning Section Manager, on behalf of ADEQ;

MARK LEWANDOWSKI, SIP and Rulemaking Development Unit Supervisor, Planning Section, on behalf of ADEQ;

KEVIN FORCE, Rulewriter, Planning Section, on behalf of ADEQ;

CATHERINE JORDAN, Planner, Planning Section, on behalf of ADEQ;

ERIC MASSEY, Air Quality Permits Section Manager, on behalf of ADEQ;

MICHELE E. BALMER
Certified Court Reporter
Certificate No. 50489

HEARING OFFICER O'CONNELL: Good afternoon ladies and gentlemen. The subject of this hearing is the proposed revision to Arizona Administrative Code A.A.C. R18-2-702, entitled the "General Provisions" rule which is applicable to existing stationary sources.

I now open this hearing. The date is Monday, September 8, 2003, and the time is 1:30 p.m. The location is Conference Room 250 of the Arizona Department of Environmental Quality, (ADEQ or "the Department") building at 1110 West Washington Street, Phoenix, Arizona, and our zip code is 85007.

My name is Cathy O'Connell. I'm the manager of the Air Quality Compliance section, and I have been appointed by the ADEQ Director to conduct this hearing.

The purposes of this hearing are to provide the public an opportunity:

(1) to hear about the substance of the proposed revision to the Arizona Administrative Code R18-2-702;

(2) to hear about the substance of the proposed Arizona SIP revisions, which consist of the proposed version of A.A.C. R18-2-702, as well as a request for EPA to approve existing Arizona definitions found in A.A.C. R18-2-101(41), which is the definition of "existing source," and A.A.C. R18-2-101(111), which is

the definition of "stationary source";

(3) the purpose is to ask questions concerning the proposed rule and SIP revision; and

(4) to present oral arguments, data, and views concerning the proposed SIP and rule revisions in the form of comments on the record.

Other ADEQ Air Quality representatives in attendance today are: Theresa Pella, who is the Air Planning Section Manager; Mark Lewandowski, who is the supervisor of the SIP and Rulemaking Development Unit in the Planning Section; Kevin Force, who is the rulewriter in the Planning Section; and Catharine Jordan back there, who is the Planner in the Planning Section. Also in attendance is Eric Massey who is the Manager of the Air Quality Permits Section.

If you plan to make a public comment on the record, the procedure is straightforward. Please complete a speaker slip which is found at the sign-in table and hand the slip to me. Using speaker slips allows everyone an opportunity to be heard, and allows us to match the name on the official record with the particular comments.

You may also submit written comments to me today in person, or you may submit comments by mail, e-mail, or fax. Please submit comments by the end of

the comment period which is 5:00 p.m. on Friday, September 12, 2003. Any written comment must be received no later than September 12, 2003.

Submit your written comments to: Kevin Force -- that's F-O-R-C-E -- of the Air Quality Planning Section, Arizona Department of Environmental Quality, 1110 West Washington Street, Third Floor, Phoenix, Arizona, 85007. The fax number is area code (602) 771-4480. Or you can e-mail your comments to Kevin at FORCE.KEVIN@EV.STATE.AZ.US.

Oh, they just told me that this is the wrong fax number. Correct that, please. It's area code (602) 771-2366. Thank you.

State and federal law requires that comments made during the formal comment period be considered by ADEQ in the preparation of the rulemaking and final SIP revision. This is done through ADEQ's preparation of a final rule and SIP responsiveness summary, in which the Department responds in writing to written and oral comments made during the formal comment period.

To help out administratively, please indicate if your comment is related to the proposed rulemaking, the proposed SIP revision, or both.

The agenda for this hearing is simple. First, I will ask Theresa Pella to provide an overview of the

proposed rulemaking and SIP revision. Second, I will conduct a question and answer period. The purpose of the question and answer period is to provide information that may help you in making comments on the record.

Third, I will conduct an oral comment period. At that time, I will call speakers in the order in which I have received their speaker slips.

Please be aware that any comments you make at today's hearing that you want the Department to formally consider, must be given either in writing or on the record during the oral comment period of this proceeding.

At this time, Theresa Pella will give a brief overview of the background concerning Arizona's proposed revision to A.A.C. R18-2-702, and the proposed SIP revision.

Theresa.

MS. PELLA: Thank you. On April 1, 1980, the Arizona Department of Health Services submitted Arizona Administrative Code R9-3-501, which was entitled, "Visible Emissions: General," to EPA for approval and inclusion into the Arizona State Implementation Plan.

On April 23rd, 1982, EPA finalized approval of the rule, and it was incorporated into the Arizona SIP.

And the citation for that approval for that April 23, 1982 action is Volume 47 of the Federal Register, page 17483.

Arizona then renumbered the general opacity rule in 1987 from the R9-3-501 to A.A.C. R18-2-501. ADEQ again renumbered the opacity rule as A.A.C. R18-2-502, effective September 26, 1990.

The rule was renumbered again and revised effective November 15th, 1993. This version of the opacity rule, the general opacity rule, known as R18-2-702, was submitted to EPA on July 15th, 1998 as a SIP revision.

On September 23rd of 2002, EPA disapproved that Rule R18-2-702 for the following reasons:

The rule's change in scope of applicability from the previously EPA approved rule resulted in perceived SIP relaxation, which is in violation of the 1990 Clean Air Act Amendments, Section 110(l) and Section 193;

Reason number two, the rule's 40 percent opacity limit did not fulfill the Reasonably Available Control Measures or Reasonably Available Control Technology requirements of the Clean Air Act, Section 189(a); and

Reason number three, the existing rule provided

for director's discretion to approve an alternative opacity limit without the opportunity for EPA to review such changes to ensure enforceability of the alternative.

EPA's disapproval required that ADEQ correct those three noted deficiencies, submit the revised rule, and receive approval from EPA as a SIP revision by April 23rd of 2004, or the area or the state would be subject to sanctions under Section 179 of the Clean Air Act. Sanctions may include such things as loss of Federal highway funds and stricter emission offset requirements for major sources wishing to locate in nonattainment areas.

In addition, should Arizona fail to correct the deficiencies in time, EPA must act no later than October 23rd of 2004 to promulgate a Federal Implementation Plan under 110(c) of the Clean Air Act.

So since last fall, the Air Quality Division has met with stakeholders to discuss how to address the noted deficiencies. As a result, today's proposed rule and SIP revision contain the following information.

To address deficiency number one, the proposed SIP revision explains that the applicability of R18-2-702 is actually more stringent than the previously approved SIP Rule R9-3-502. 502 applied

only to sources constructed before May 14, 1979, while R18-2-702 applies to all existing stationary sources that do not have a specific opacity standard found elsewhere in the air quality regulations. In other words, the purpose of A.A.C. R18-2-702 is to apply an opacity standard to sources for which there is no other Arizona source specific standard.

To address deficiency number two, the proposed rule revisions of R18-2-702 to impose a statewide 20 percent opacity standard is meant to satisfy the Reasonably Available Control Measure requirement.

And to address EPA's noted deficiency number three, the proposed rule revisions to R18-2-702, Section G to include EPA's review and approval of alternative opacity standards approved by the director -- that's the ADEQ director -- for sources in nonattainment areas is meant to correct the last deficiency noted by EPA.

In addition, ADEQ is proposing in the SIP revision to submit two existing definitions as part of the SIP revision. R18-2-101-41 is the definition for "existing source," and R18-2-101.111 is the definition for "stationary source."

Because the current versions of these definitions are referenced directly in Subsection A of

R18-2-702 but have never been approved by EPA yet into the SIP, we're requesting them to go ahead and approve those two definitions along with 702.

So that basically concludes the overview of the proposed rulemaking and SIP revision.

HEARING OFFICER O'CONNELL: We'll next move to the question and answer period.

Does anyone have any questions for the panel?

Mr. Leipold.

MR. LEIPOLD: Yeah. I have one question. In the proposed SIP, it appears to be a -- the title of Section 5 at some point was changed when it became Section 7. And that change is not noted in the list of changes that happened in the SIP.

MS. PELLA: Okay. For one of the specific rules, Wayne? For 501?

MR. LEIPOLD: No. Actually, it's the section itself. In other words, if you go back to the approved -- the SIP approved attachment, the title of Article 5.

MS. PELLA: Which attachment do you have there?

MR. LEIPOLD: 3.

MS. PELLA: Attachment 3. Okay.

MR. LEIPOLD: The title of Article 5 is not the same as the title of Article 7, but that change isn't reflected in your explanation at the beginning of the

SIP.

MS. PELLA: Oh, I see. Okay. Are you going to make that an official comment or send it to us in your letter?

MR. LEIPOLD: I can.

MS. PELLA: Would you, please? Thank you.

HEARING OFFICER O'CONNELL: Any other questions, folks?

MR. LEIPOLD: Yeah. I had two.

HEARING OFFICER O'CONNELL: I'm sorry, Wayne. Go ahead.

MR. LEIPOLD: I have to find where I was.

In the proposed rule where you're listing the steps to go through to ask for an alternative standard, Number 4 says: Document control equipment capable of being adjusted.

Some point sources do not have control equipment and that option -- or that doesn't appear to be in there. It appears -- how do you handle a source that does not have a control device on it?

MR. LEWANDOWSKI: Could you tell me where that is again? You said Number 4, but I couldn't find it.

MR. LEIPOLD: On page 15 of Attachment 2.

MS. PELLA: Right. So it says where incapable of being adjusted, but it doesn't -- what you're

suggesting is the rule language needs to reflect, "does not have or is incapable."

MR. LEIPOLD: That's what I'm asking. If I don't have a piece of equipment, I can't adjust it. But the rule doesn't seem to give me that option.

MS. PELLA: Maybe we can turn to Eric, and is that something -- I think we had talked about that.

MR. MASSEY: I think we're probably going to have to discuss it a second time. Honestly, I don't remember the discussions on it.

MR. LEIPOLD: And then the one last one is that I know that we talked about an exclusion for sources that were specifically listed in Article 6. I don't see -- maybe I can't find where it is, but where is that?

The point sources they cover in Article 6 can't be covered by Article 7. But in the definition up here in the general provisions, that exception doesn't seem to be in there. I'm just curious if it's supposed to be or not.

MR. LEWANDOWSKI: It's possible that it's covered by 702.A.2, the definition of point source. But this article shall only apply to a source that is a point source.

MR. LEIPOLD: Well, I don't have my rule book

in front of me unfortunately, so I can't --

MS. PELLA: Article 6 is for nonpoint sources.

MR. LEIPOLD: Nonpoint sources. Yeah.

MR. MASSEY: I believe that 601 actually specifically states that.

MS. PELLA: Right.

MR. LEIPOLD: Isn't the crusher specifically -- some crusher specifically covered under Article 6?

MR. MASSEY: There's some potential that, yes, there are rules under Article 6 that may apply to you. We'll have to -- I mean, I guess what I would need from you is a more specific example, and I can give you probably a more specific answer.

MS. PELLA: It might help -- you know, Eric, when we were going through the stakeholder process, there was a group of stakeholders and Eric that got together. And Eric created this one-pager that differentiated and explained how we were approaching that. So it might help, Mark and Kevin, if we include that somehow in the final rulemaking.

HEARING OFFICER O'CONNELL: Perhaps in the preamble?

MS. PELLA: Yeah. So we'll make a note of that, Wayne, to include that.

HEARING OFFICER O'CONNELL: Any other

questions? Sir?

MR. KUHNHENN: I had a quick question. If an industry is already regulated by a Maricopa County rule, will this supersede that or how does that work? Maricopa County is more stringent so they will still be in effect?

MS. PELLA: Right. Any sources permitted by Maricopa County this rule does not impact.

HEARING OFFICER O'CONNELL: Do you want your name noted, please, sir?

MR. KUHNHENN: Russell Kuhnhenn.

HEARING OFFICER O'CONNELL: Can you spell your last name for the court reporter?

MR. KUHNHENN: K-U-H-N-H-E-N-N.

HEARING OFFICER O'CONNELL: Thank you, sir.

Anyone else have any questions?

(No response.)

HEARING OFFICER O'CONNELL: Well, seeing none, this concludes the question and answer period of this proceeding on the proposed rulemaking and SIP revision.

I now open this proceeding for oral comments. And the first speaker is Mr. Tom Edge from the Arizona Cotton Growers Association.

Mr. Edge?

MR. EDGE: Thank you. After reviewing the

notice of the proposed rulemaking for A.A.C. R18-2-702, Arizona's general opacity rule, we have several observations and concerns.

We oppose the change to 20 percent opacity based on the fact that we operate on a seasonable basis. Furthermore, according to the data collected by Pinal County Air County District, the 12 to 14 weeks that we operate does not show any appreciable increase in PM-10. In addition, the vast majority of cotton processed by gins already meets the proposed lower opacity level.

Our greatest concern, however, is the approximately 15 percent of ground harvested cotton we gin annually. If ground harvest cotton is not exempted from the 20 percent rule, there will be an extreme financial hardship placed on the cotton gins -- not only the cotton gins, but the cotton industry in general.

Although this percentage seems insignificant, it is often the difference between a profit and a loss in the current economic atmosphere. We therefore urge you to consider the economic implications this change will have on the Arizona cotton industry.

In addition, should an exemption be issued, we further urge you to less arduous testing, reporting,

documentation than the proposed rule requires.

HEARING OFFICER O'CONNELL: Thank you, Mr. Edge.

MR. EDGE: Thank you.

HEARING OFFICER O'CONNELL: Speaker number two, Doug Lavarnway, Arizona Public Service Company. L-A-V-A-R-N-W-A-Y.

MR. LAVARNWAY: I represent Arizona Public Service Company, Cholla Power Plant. We have one older unit up there, coal-fired unit, that has been mentioned in the preamble. Of course, we're the ones that are looking at an $11 million capital expenditure in order to meet this rule.

I have two issues of concern. One is the alternative opacity limit that is proposed in the rule. The intent through the preamble, ADEQ's intent is it would only apply during certain times. It would not be an alternative limit that you could apply for and have apply at all times. It would only apply during times that you needed it to apply.

Unfortunately, in our situation, it would be an administrative nightmare trying to determine and know when an alternative limit should apply or shouldn't apply.

Further, for load ramps, which has been our

example that we've primarily used, how do you determine when those load ramps start and end, and what load ramp rate do you use? Well, you got to pretty much wait until that opacity averaging curve gets done. Then you can say, well, which opacity standard did apply? That's retrospect compliance. It's after the fact. It's not manageable by anybody within our source.

You couple that with the stringent time frame for compliance -- as you know, we're a very large utility. That unit has been up there for several years. There's three other electric generating units that surround that unit. Trying to procure, design, and install pollution control equipment on that unit to meet the 20 percent opacity limit continuously will take longer than two years. The industry standard is three years for a like utility to comply.

If you look back at any rulemakings, any previous back analysis that's done for NSPS or TSP, you always see about a three-year time window or time frame allotted for installation of those controls. It's not something that we can just do overnight.

That's it.

HEARING OFFICER O'CONNELL: Thank you.

Is there anyone else who wishes to present a comment on the record?

(No response.)

HEARING OFFICER O'CONNELL: Seeing none, this concludes the oral comment period of this proceeding.

I strongly encourage everyone to submit written comments on the proposed rulemaking and SIP revision. Thank you for your attendance.

The time is now 1:59 p.m. I now close this oral proceeding. Thank you.

(The Hearing concluded at 1:59 p.m.)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

I, MICHELE E. BALMER, Certified Court Reporter No. 50489 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 19th day of September, 2003.

Michele E. Balmer

MICHELE E. BALMER
Certified Court Reporter
Certificate No. 50489

RESPONSIVENESS SUMMARY

Revisions to the Arizona State Implementation Plan to Incorporate Changes to A.A.C. R18-2-702, R18-2-101(41), and R18-2-101(111)
Summary of ADEQ Responses to SIP Comments Received by 5:00 p.m., Friday, September 12, 2003

The combined public hearing on proposed revisions to A.A.C. R18-2-702, and incorporation of the rule revisions into the Arizona State Implementation Plan (SIP) was held at 1:30 p.m., on Monday, September 8, 2003, at the Arizona Department of Environmental Quality (ADEQ), 1110 West Washington Street, Phoenix, Arizona 85007. The public comment period closed at 5:00 p.m., on Friday, September 12, 2003. Summaries of SIP-related, written comments received within the public comment period, and ADEQ's responses, are included below. Comments and responses to the A.A.C. R18-2-702 rulemaking are included in the Notice of Final Rulemaking (see Attachment 6).

1. ADEQ received a written comment from Sonora Environmental Research Institute, Inc., dated September 11, 2003. The comment is shown, below.

   "This Notice appears to be only a notice for the proposed rulemaking and not a notice for a SIP revision. The [rulemaking] preamble discusses revision of the SIP but also discusses that items will be discussed in the background to the SIP revision. This is confusing. As this appears not to be a notice of a SIP revision, a notice must be made for the proposed SIP revision along with the appropriate public comment period. The lack of clarity of this issue makes it difficult for the public to determine if this is a SIP revision and therefore federally enforceable."

   On August 6, 2003, The Arizona Republic published Arizona's official Notice of Public Hearing on, "…Proposed Revisions to the Arizona State Implementation Plan, and On Proposed Revisions to Arizona Administrative Code (A.A.C.) R18-2-702, The General Visible Emissions Standard for Existing Stationary Sources." Language in the Notice of Public Hearing, and in the public hearing transcript confirms that the public hearing solicited comment on both the proposed rulemaking and the proposed SIP revisions.

2. During the September 8, 2003, public hearing, Phelps Dodge Miami, Inc. commented that although the proposed SIP regulatory history [Section 1.2] addressed other revisions to the Arizona Administrative Code related to the general opacity provision rule, the history hadn't addressed the slight change in article title that occurred, as a result of recent revisions.

   In the *Adopted, Final Revisions to the Arizona State Implementation Plan to Incorporate Changes to Arizona Administrative Code R18-2-702, R18-2-101(41), and R18-2-101(111),* ADEQ has clarified that the official title of the previous, SIP-

approved general opacity article was, “Existing Stationary Point Source Performance Standards,” while the article under which the current general opacity provision, A.A.C. R18-2-702, is found is entitled, “Existing Stationary Source Performance Standards.” In the final SIP revision, ADEQ also points out that the change in article title from, “Stationary Point,” to “Stationary Source,” did not reflect a change in the sources regulated by the articles.